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Part 2

OVERSIGHT OF MARINE FISHERIES MANAGEMENT

HEARINGS

BEFORE THE

NATIONAL OCEAN POLICY STUDY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

THE OVERSIGHT OF THE MARINE FISHERIES MANAGEMENT ACT

PART 2

JULY 6 AND 7, 1989

Printed for the use of the
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OVERSIGHT OF MARINE FISHERIES MANAGEMENT

THURSDAY, JULY 6, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
NATIONAL OCEAN POLICY STUDY,
Anchorage, AK.

The National Ocean Policy Study met at 9:10 a.m. in room C-137, Federal Building, 222 West 7th Avenue, Hon. Ted Stevens presiding.

Staff members assigned to these hearings: Penny Dalton, professional staff member; and Earl Comstock, minority professional staff member.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Good morning. I am sorry we had to start a minute or so late. We are pleased to see you here.

These are hearings of the Senate Commerce Committee. Tomorrow there will be similar hearings in Seattle.

Penny Dalton, who represents the majority of the committee, will be back in a moment, and Earl Comstock, who is a minority staff member of the committee, and Arlene Sidell, who works with me, are here with us also.

Our purpose is to take testimony on revisions to the Magnuson Act that might be suggested to the Senate. That act must be reauthorized by September 30th of this year, as we all know.

There is a feeling, I think, in the House of Representatives that a simple extension of the authorization for appropriations is more appropriate.

The Senate is considering a series of suggestions for revisions or additions to the Magnuson Act, and when it was decided to hold hearings in Seattle, I asked that we have a day's hearings here. At the time we originally scheduled it, we thought we'd have a series of senators in the state for the Fourth of July recess period, but that scheduled trip was canceled. There are a series of individual senators—I don't know if you know that—who are in the state at the present time, but none of them are here in Anchorage today.

So I appreciate your taking the time to come to the hearing. It is for the purpose of placing in the record suggestions of Alaskans who may not be able to make the scheduled hearing in Washington.

We have held two hearings so far, and this hearing here, and in Seattle, will be added to the record of those hearings. And I think

there is a suggestion for one more hearing in Washington after we get back, subject to the decision of the chairman. These hearings have been specifically authorized by Senator Hollings as chairman of the Commerce Committee.

So let me thank all of you for being here today, as I've said.

We've set up three panels. The first is Oscar Dyson and Ron Hegge, representing the North Pacific Fishery Management Council (Council). We thought it would be appropriate to hear from the Council members who are here, first.

So, Oscar and Ron, would you like to start off, please?

We've not asked you to speak for the Council, but to speak as individual members of the Council.

Good morning.

Mr. DYSON. Good morning, Senator.

Senator STEVENS. Do you want to pull that up to you a little bit? There you go. Thank you.

STATEMENT OF OSCAR DYSON, VICE-PRESIDENT, ALL ALASKA SEAFOODS

Mr. DYSON. Good morning, Senator.

For the record, my name is Oscar Dyson, and I own the fishing vessel Peggy Jo, and I'm also vice-president of the All Alaska fishery company.

Senator Stevens, members of the committee and staff, I appreciate the opportunity to testify before you today, and thank you for bringing this hearing to Alaska so we'd be able to testify.

The Magnuson Act has been a wonderful tool. It has allowed us to bring the fisheries under control; it has allowed us the opportunity to practice good conservation; it has allowed us the opportunity to use our fisheries for the maximum benefit of the most people.

There is no question that we have to reauthorize the act if we are to continue to conserve our fishery and manage our fishery well.

In fact, the Magnuson Act has worked so well, I don't see that we really need to change it. But it might be appropriate to clarify it a bit to respond to the changes that have happened in the fishery—full Americanization, and the advent of the factory trawlers that we have in our fleet.

There wasn't any factory trawlers in 1971, 28 years ago, when I brought in the first load of pollock ever delivered to the shorebased plants. The time wasn't right then, but our intent to pursue the groundfish was clear.

Since 1971 a lot of things have happened which together have made it possible for us to Americanize the groundfish.

The MFCMA has given us control of our fisheries.

Federal allocation policies have rewarded the countries who helped us develop them.

Joint ventures allowed us to earn the capital to convert our vessels for groundfish, and the chance to learn the fishing grounds.

The processor preference amendment gave the Councils clear directions on how to allocate fish among foreigners, joint ventures, and U.S. operations.

Continued Federal effort opened foreign markets for our fish.

Creation of the Fisheries Development Foundation helped us learn to process fish, particularly flounder and pollock.

Invention of the Baader 182 allowed us to efficiently process pollock.

U.S. markets for surimi and surimi analogs have been developed.

All of this was accomplished before there was U.S. factory trawlers. It was done by shorebased processing and joint venture harvesters in coordination with the U.S. government.

However, this year, it seems that we're right back where we were in 1971. A fleet of at-sea vessels, with the capacity to catch every fish in the ocean, is working without adequate controls to the detriment of the resource, shorebased processors, and coastal communities.

At the Council level we're trying to get things back under control. Last month we recommended 100 percent mandatory coverage on all vessels over 125 feet. The larger vessels must pay for their own observers. Under 125 feet, there will be a 30 percent coverage, so everybody will be taxed with conserving the fish.

While this helped us carry out the conservation mandate of the MFCMA, we still have the fact that allocation must be made between the shorebased and the at-sea operations. In other words, we knew this time was coming, but we didn't think it was coming so soon, where we would have to sit down—the Council and other management people would have to sit down and allocate the fish between our own people.

Ted, I don't need to explain to you how badly our plant and community was hurt this year when the factory trawler fleet moved into the Gulf and took in two weeks what should have been enough to last Kodiak a year. And on this point, the MFCMA needs some clarification.

It is very clear how we should allocate among foreigners, joint ventures, and domestic operations. However, the Magnuson Act doesn't give us any real guidelines on how to allocate among U.S. users. What we need is a fair way of allocating among U.S. users of the resource.

Do we give the fish to the operations which generate the most employment, or the operations which show the most, the highest profit? Do we protect shorebased communities, or let them die? Do we let a few companies control the industry, or try to spread it out among as many companies as possible?

Certainly there is a place in our industry for factory trawlers, but I don't think that place is disrupting coastal communities.

We sure need your help in this, Ted, and I hope the intent of the Magnuson Act is clarified, and we hope that it is extended so we can further manage our fishery.

Thank you very much for coming.

[The statement follows:]

WRITTEN TESTIMONY OF OSCAR DYSON
FOR THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
FIELD HEARING ON MFCMA REAUTHORIZATION
HELD JULY 6 IN ANCHORAGE ALASKA

My name is Oscar Dyson. I have the fishing vessel Peggy Jo and am vice-president of the processing company All Alaskan Seafoods.

Senator Stevens, members of the committee and staff, I appreciate the opportunity to testify before you today and thank you for holding these field hearings.

I've been involved in fishing in Alaska for more than 43 years and fished during the days when foreign fleets worked right off our shores. At that time there was no hope for developing a U.S. groundfish industry. I participated in many negotiations with foreign nations in hopes of protecting our resources for the future.

To me the Magnuson Fisheries Management and Conservation Act is a wonderful tool. It allowed us to bring our fisheries under control; it allowed us the opportunity to practice good conservation; and it allowed us the opportunity to use our fisheries for the maximum benefit of the most people.

There's no question we have to reauthorize the Act if we are going to continue to conserve our fishery resources.

In fact, the Magnuson Act has worked so well I don't see that we need to really change it. But it might be appropriate to clarify it a little to respond to recent changes in the fishing industry - full Americanization and the appearance of a large fleet of U.S. factory trawlers.

Since its inception I've felt the MFCMA had two basic objectives: Conservation of the resource and development of a strong U.S. fishing industry.

Through good research and management we can conserve the resource. I've also felt we could develop a strong U.S. fishing industry by controlling and eventually eliminating the foreign operations.

However, none of us anticipated that the foreign factory trawlers would be replaced by American factory trawlers and that the problems with conservation and lack of a level playing field would continue.

I made the first delivery of groundfish to a shorebased plant in 1971, long before there were any U.S. factory trawlers. It was my vision that the time would come when we would be able to take advantage of our groundfish resources.

I knew we had a lot of work to do -- gain control of the resource, learn to catch and process the fish, develop markets and find financing before we would really develop our industry.

And we have done that work.

Since that first delivery in 1971
1. The MFCMA has given us control of our fisheries;
2. Federal allocation policy rewarded those countries who helped the U.S. industry develop;
3. Joint ventures allowed us to earn the capital to convert our vessels for groundfish and the chance to learn the grounds and learn to catch the fish;
4. The processor preference amendment gave the councils clear direction on how to allocate fish among foreign, joint venture and U.S. operations.
5. Continued federal effort opened foreign markets for our fish;
6. The creation of the Fisheries Development Foundations helped us learn to process the fish - particularly flounder and pollock;
7. The invention of the Baader 189 allowed us to efficiently process pollock;
8. U.S. markets for surimi and surimi analogs have developed.

While all this was going on there weren't any factory trawlers. The whole idea was that shorebased processing would develop and joint venture vessels would move from foreign processors to U.S. processors.

I guess we all felt that we were on track and working toward a common, achievable goal -- shorebased processing of groundfish. I certainly know my company is and has been for more than 20 years.

But about three years ago the factory trawler fleet started to grow, now there's around 67 vessels and expected to be around 100 by the end of 1990.

As a result, we're right back where we were in 1971. A fleet of at-sea vessels with the capacity to catch every fish in the ocean is working without adequate controls to the detriment of the resource, shorebased processors and coastal communities.

The council last month moved to require observers on all groundfish vessels larger than 125-feet and 30% observer coverage on all vessels smaller than 125-feet. This was an important step to regain some control of resource and the data we need for successful management.

However, we are still faced with the problem of an unfair playing field.

Dyson Written FCMA Testimony - Page 3

This year a fleet of factory trawlers steamed into the Kodiak area and in two weeks took nearly 40,000 MT of pollock -- tonnage we anticipated taking all year to fish. This left our plants without fish; our workers without employment and our community without an economic base.

I want to point out here that Kodiak hasn't grown -- we have the same plants and vessels we had 20 years ago. What groundfish did for Kodiak was to bring us back to where we were before the crab and shrimp fisheries collapsed.

Without any pollock for the rest of 1989 all we have for the fall is a little Pacific cod which might carry us through -- if the factory trawlers don't decide to target on it.

Until about three years ago we could predict a year or so ahead about how much fish we could get for our plant. Now we don't know from day to day. This is no way to do business and no way to allocate the resource.

I feel the shorebased plants and catcher boats spent the time, money and effort to develop a groundfish industry only to, at the last minute, find it taken away from us by people who put little into the development of this industry, by people who can legally avoid many of the taxes and regulations imposed on shorebased plants.

What we need is a fair way to allocate the resource among U.S. users of the resource. We are going through the council process in an effort to get a fair allocation for shorebased plants and U.S. catcher boats.

I understand other councils are going to consider some type of allocative process to protect shorebased communities.

However, the Magnuson Act doesn't give us any real guidelines on how to allocate among U.S. users. Do we give the fish to the operations which generate the most employment or the operations which show the highest net profit?

Do we protect shorebased communities or let them die?

Do we let a few companies control the industry or try to spread it out among as many companies as possible?

It's in this area that I feel the MFCMA could use some clarification. Maybe it should spell out that protecting shorebased communities' economic base is a priority consideration when allocations are made.

Certainly there is a place in our industry for factory trawlers, but I don't think that place is disrupting coastal communities.

We sure need your help on this Ted and I hope maybe the intent of the Magnuson Act can be clarified.

Senator STEVENS. Thank you, Oscar.

Mr. DYSON. I'll answer any questions you'd like.

Senator STEVENS. Well, let me hear from Ron first.

We're going to print all of the testimony that's presented in the record, and I appreciate you summarizing.

Ron.

STATEMENT OF RON HEGGE, DIRECTOR, ALASKA LONGLINE FISHERMAN'S ASSOCIATION

Mr. HEGGE. Thank you, Senator Stevens. Good morning to you and the representatives of the committee. I appreciate the opportunity to appear before you today to testify on recommended changes to the act.

I'll be speaking on behalf of the Alaska Longline Fisherman's Association, which is a nonprofit association comprised of members who fish off the coast of Alaska using hook and line gear.

The overwhelming concern of our association is the implementation of a comprehensive observer program. We believe the observer program should be implemented on a regional basis. And we do support the framework program, which Oscar referred to, recently approved by the Council at its June meeting. We urge the Councils be given authority by region to assess cost recovery fees to fund the program within each respective region. We further suggest that these fees be based on participation, such as on a poundage fee, or based on ex-vessel price.

Our association was the first to contribute to the voluntary observer program funded by AFTA. We actually gave up to one-third of our budget, because we believed so strongly in it. However, we do not believe that a continuing voluntary program is feasible.

The following comments deal primarily with the North Pacific region.

We support the current number and distribution of Council members.

Fishermen, as well as members of support industries, can be identified as originating from many different states. However, they share one thing in common with the resident Alaskans in their dependence upon Alaska's natural resources for their livelihoods.

We feel the current distribution of voting members gives Alaska the proper representation to protect and preserve this critical resource for the benefit of all citizens.

In conclusion, the Councils, and in this instance, we believe Congress, should determine if the groundfishery is developing as actually intended within the bounds of the Magnuson Act. We have serious concerns that the development of the groundfish fishery in the North Pacific is having an adverse effect on the traditional fisheries upon which so many people depend. We are further distressed that this developing groundfish fishery is benefiting so few, and that Alaska is not sharing proportionally in that benefit.

That concludes my remarks, senator.

Mr. HEGGE. I have a short videotape that was presented to me that, with your permission, I'll play for the committee.

Senator STEVENS. We'd be pleased to see that.

[Videotape shown.]

Senator STEVENS. While you're not speaking for the Council, you're both members of the Council. What is the source of the funding that is contemplated for the 30 percent of the smaller vessels that will be covered by the observer program?

Mr. DYSON. Well senator, we knew we had to do something, as you see what happened here. We knew that much of our fishery was running out of control, and we needed to do something about it. So we decided we would assess ourselves, and the one that had the observer must pay the cost of it. It's a cost we're willing to pay to get control, and the biological and scientific data needed to manage our fishery.

And we were hoping that in the clarification of the Magnuson Act that—one of the clarifications that I think we should look at is, is it legal to assess the industry as a whole, so that no one person would get stuck with the price of it? And that's one of the questions that I think needs to be answered.

Senator STEVENS. In terms of the 30 percent, those observers will obviously be rotated from vessel to vessel, I take it, as the seasons progress?

Mr. DYSON. That is the intent, senator.

Senator STEVENS. And the objective is that all the vessels will be eventually covered through the process. They rotate around. Is that right?

Mr. DYSON. That is correct. And also, the vessels delivering to shore are also checked at the plant, at the shorebased plants. They're checked there any time the management officials wish to do so.

Senator STEVENS. Another question, Ron, on this—obviously, killing the halibut; we saw that—but when that vessel comes ashore, wouldn't we have a record of what they've done with that halibut?

Mr. HEGGE. Only what they might wish to report, sir. They're required to keep a recording—a reporting requirement of the number of halibut that they discard, but without an observer on there, that isn't substantiated. And it probably remains with the skipper, who I doubt would ever see the factory in this case, and have a real honest idea of what was kept, or what was discarded. So under today's practices, we don't really have a good idea of it.

Senator STEVENS. Well, where do they off-load? Don't they off-load in Kodiak, if that vessel is operating out of Kodiak?

Mr. HEGGE. No, sir. They're free to off-load to any means of conveyance they wish. They can off-load to a tramper at sea, to a tramper in harbor, or if they choose, they can off-load over a dock area. Most of the transshipping is done by tramper, though, without any observation.

Mr. DYSON. On the other hand, senator, the boat that's delivering—that is, the harvester that doesn't have a processing ability delivers to shore, or some floating processor that is qualified, or in the status of a shorebased operation—he is checked. And the thirty percent of observers would cover him also, and then it'll be—as it's rotated through the industry—they will be checked under this new system of observer coverage.

Senator STEVENS. Well, does the Council have a requirement for logging the type of fish that's processed, and how much is processed?

Mr. DYSON. There will be a logbook program attached to the observer program, if the plan is carried through as the Council recommended.

Senator STEVENS. I see. And in terms of the Council's plans—I know that other people have raised the question of limited entry, and it's not a subject many people like to discuss—but does the Council have ongoing plans to study the question of limited entry as far as the trawlers are concerned in the Council area?

Mr. DYSON. Senator, that's been a question before the Council for some two, two and a half years. We had a committee called the "Fog" committee, that's held hearings all over the West Coast and Alaska. We haven't been able to come up with any kind of a, I guess, consensus, or a majority agreement of what we should do. And I think that the Council is—from my part of the Council, speaking for myself, and not the others—we feel that until we can get some kind of a program that'll be accepted by the industry, we didn't want to shove any program down their neck.

As far as Alaska is concerned, my state, when we're in the position where we're only catching fifteen percent of the fish, we didn't—it wasn't acceptable for us to be held to that fifteen percent, because that's what limited entry would do to our catch. So that's why limited entry, I guess, is not that successful at all in the bottomfish, I think. However, black cod might be another program that we'd look at differently.

Senator STEVENS. But have you discussed whether they have the authority under the Magnuson Act as it stands now, to have a limited entry as far as the processors are concerned? That's what I'm talking about.

Mr. DYSON. Oh, I'm sorry. I think that's one of the clarifications we'd be looking for, senator.

Senator STEVENS. Ron, obviously this is a by-catch problem that you've got here in this film. Has the Council discussed whether the Magnuson Act gives it the authority to deal with the by-catch problems that are developing in the North Pacific area?

Mr. HEGGE. I'd have to answer just as an observer of the Council, senator; but yes, they certainly have. There have been numerous hearings on the part of the committee that was formed by the Council. And I think it's probably one of the tougher problems the Council is going to have to face, but I think they do have the tools to approach that.

Senator STEVENS. We thank you very much; we appreciate it.

It might be nice to have a copy of that film to take back. Could you get us one of those?

Mr. HEGGE. That's yours there, sir.

Senator STEVENS. Thank you, very much.

The next panel is David Benton from the Governor's office; Paul Fuhs, the Mayor of Unalaska; Jerome Selby, the president of the Southwest Alaska Municipal Conference; and Lamar Cotten, who is the administrator of the Aleutians East Borough. This is a state and local government panel.

Jerome will be here in a while, I'm told.

Gentlemen, why don't we proceed as I read them, if that's agreeable with you. David, we'll have you start in.

STATEMENT OF DAVID BENTON, DIRECTOR, EXTERNAL AND INTERNATIONAL FISHERIES AFFAIRS, ALASKA DEPARTMENT OF FISH AND GAME

Mr. BENTON. Thank you, Senator.

For the record, my name is David Benton. I am the director of External and International Fisheries Affairs, Alaska Department of Fish and Game, here representing the state today.

I want to thank you, senator, for bringing the committee to Alaska to hold these hearings and let the industry and communities present testimony to you. I think it's very important that Alaskans get a chance to air their views regarding the Magnuson Act.

I've already supplied the committee with our written testimony, and we've also given the NOPS committee some fairly extensive information as well. I don't want to go back over those points.

Something that I did want to bring up with you and touch base with you about here today is the recent developments in international fisheries—something that I know is of interest to you—particularly driftnet fisheries and the high seas salmon interception issue.

As you are aware, we've initiated a new agreement with the Taiwanese. We haven't had the opportunity yet to look at the agreement in depth yet, I received a copy yesterday, and I've been reading through it and looking at it. The state hasn't taken a position on the agreement at this time. However I know that you took a great interest in the agreement with the Japanese. We thank you for the support that you gave us in that matter.

I'd like to call your attention to just a few problems that I've been able to identify in a preliminary look at the Taiwanese agreement, things I think that you might find interesting and useful.

The Taiwanese agreement, from my reading, has some bright spots in it, but it also has some detrimental aspects to it as well. In fact, from what I can see, I would say that it is certainly no better than, and maybe even worse than the agreement we got with the Japanese, on a number of points.

For example, the Japanese, when they moved their squid regulatory area north in July and August, it was a unilateral action. They'd already promulgated regulations, announced it to their industry, and then informed us at INPFC in November, a full seven months before the agreement was initialed in Tokyo.

The Taiwanese had not performed any of those steps. They had not promulgated regulations, they did not make any announcements to their industry, and were actually coming to the U.S. it's my understanding, with a proposal for an expanded fishing area. And the agreement would sanctify an expanded fishing area for their large-mesh fleet, and also for their squid fleet in the area west of 170 degrees east.

The area west of 170° E that we're talking about is also the land based salmon fishing area under INPFC for the Japanese. We know that U.S. origin steelhead and coho occur in this new fishing area, and possibly chinook, and possibly sockeye. The information is sketchy. The scales pattern analysis on the samples that we've recently gotten from the land-based fishery of Japan haven't been completed, so we don't have the benefit of that data. But we're

very concerned that that agreement is legitimizing an expanded fishery, and is legitimizing the operations that the Taiwanese have been pursuing.

Similarly, it allows the Taiwanese large-mesh fleet, which is really their squid fleet fishing large-mesh gear for tunas, to move northward into an area that historically has had water temperatures that could be salmon-bearing waters. And we know that the Taiwanese fleet carries both large-mesh and small-mesh gear, and there's no restriction on them doing that.

We have a real concern about the ability to monitor and enforce that restriction to using only large-mesh gear, and we think that there's a potential there for abuse.

Similarly, the agreement provides that by 1990 the fleet is supposed to have 100 percent satellite transmitters. That's a vast improvement over what we have with the Japanese, but there's a number of loopholes in the way that it's worded in terms of whether or not Taiwan and the U.S. find those satellite transmitters to be effective, and whether or not Taiwan is able to bring their internal policies to a place where they can actually put those on their vessels. And that causes us some great concern as well.

The enforcement provisions are, of course, an improvement over what we have, because we have no boarding authority with the Taiwanese at all right now. And this does provide us with some ability to board those vessels. We're just going to have to wait and see how that works out. There are some restrictions on how that boarding authority would work, but at least it does bring it up to close to the level that we have with the Japanese under INPFC.

The observer program is a real problem. We will have one observer, maybe, this year, and the rest of the details for 1990 and beyond are not spelled out at all.

In fact, I guess that's probably one of the most glaring problems with this agreement that we can see, is that it has some fairly positive conceptual language in it, but none of the details have been worked out. It strikes me, from my early review of it, that really all this agreement does at present is put off any decisions until 1990. It's half an agreement, without any of the details worked out.

At least when we worked something out with the Japanese we had the details, very specific details, of what would be reported, the ability to take biological samples, what kind of forms would be used, how we'd get the observers out there, what they'd be able to look at; just a whole range of subjects that need to be approached in this Taiwanese agreement.

I'd strongly encourage your office to take a very careful look at this. And I'd be more than happy to work with you on it. I believe that there's some additional work that needs to be done on the details as soon as possible if this agreement is to be a step forward. I wouldn't necessarily at this point say that it's a bad agreement and we ought to turn it down, but I think that there is additional work that needs to be done.

I wanted to raise that with you because I know that the squid issue is very important to you. As the sponsor of the Driftnet Act, you're largely responsible for what progress we've made on this issue today, and I really want to thank you for that.

I had the opportunity to meet with the heads of 16 South Pacific island nations a couple of weeks ago, including New Zealand and Australia. They're approaching this same set of problems from a little different perspective. They're dealing with the tuna fleets down there. It is the same three countries, Japan, Taiwan, and Korea, the same technology, and in many cases the same vessels. And those three countries are using the same negotiating tactics with the South Pacific island nations.

The island nations adopted the position that just basically called for a ban on driftnet fishing in their region. And I was hearing a lot of phrases down there, calling high seas pelagic driftnet fishing "the wall of death," and "strip mining the ocean," terms that I seem to recall hearing when the Driftnet Act was being passed.

We have a very real concern that these agreements that we're getting with Japan and Taiwan—and we're going to be negotiating one soon with Korea—may not be really accomplishing the goals that we're trying to accomplish, and may be legitimizing those fisheries, when what we need to be doing is trying to figure out how to take a stronger stand and get them off our fish. If they maintain a long-term presence out there, and we legitimize those fisheries, so to speak, it's going to require a long-term commitment on behalf of the U.S. for enforcement and monitoring. It's going to be very expensive. I don't know whether we can maintain the necessary level of effort over the long term.

Regarding the Magnuson Act—and I'll be done here real quickly—I would like to generally support the comments of the previous two speakers. The state believes that the by-catch issue and the waste issue are extremely important. We think that the Magnuson Act should provide some further guidance on conservation of the resource. Conservation should be the number one national goal under the act; and then there should be some broad policy guidance to the Councils regarding how to address some of these related issues.

We don't want to see Congress get into allocation of resources amongst users. We think that's more appropriately done at the Council level. I know you're going to hear about community development and shoreside processors from the industry. I just want to emphasize that the state is very concerned about the threat we percieve from developments in the fishery to all the time, money, and resources that have gone into developing the shoreside industry in this state. This is the basis for a significant part of the economy for our coastal communities. We'd hate to see that economy jeopardized, and we believe that some broad guidance in the act may be appropriate to help the Councils in dealing with that thorny kind of issue.

I want to thank you very much.

[The statement follows:]

TESTIMONY OF DAVID BENTON
Before the
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
July 6, 1989
Anchorage, Alaska

Mr. Chairman and Members of the Committee, thank you for bringing the Committee to Alaska and making it possible for representatives of our diverse fishing interests to share their views. I am David Benton, Director of External and International Fisheries Affairs, Alaska Department of Fish and Game.

My comments on reauthorization of the Magnuson Fishery Conservation and Management Act (MFCMA) will focus on three major issues: strengthening the conservation standards of the Act to address waste and bycatch; maintaining a reliable funding mechanism for fisheries management and research; and the importance of the regional council process.

These three issues relate principally to our own domestic fisheries. However, before discussing these domestic issues, I would like to take a few moments to talk about recent developments in several international arenas. Since the State of Alaska's position is on record with this committee from prior hearings, I have attached a prior statement as background.

As the Committee knows, we have now reached agreement with Japan under the Driftnet Act and have also gotten a tentative agreement with Taiwan. Both of these agreements are controversial and have received mixed reactions from the industry. We are still

reviewing the Taiwanese agreements and cannot comment in detail at this time on the specific provisions of that agreement. However, our preliminary analysis clearly shows us that the enforcement burden will fall squarely on the shoulders of the United States. The recent enforcement actions by the Coast Guard against Taiwanese vessels show what can be done when the Coast Guard has the tools it needs, and the nature of this agreement strongly argues for the need for increased funding for Coast Guard enforcement activities.

I, therefore, wish to reemphasize the State of Alaska's position regarding several actions which need to be done to effectively address our international fisheries concerns most notably, the interception of U.S. origin salmon:

1. Strengthen our enforcement presence in the North Pacific and Bering Sea. The Coast Guard has modestly increased its fisheries enforcement presence in the area, but budget limitations are a major hinderance. It has become increasingly obvious that the only way to protect our fish is to maintain a strong enforcement presence on the grounds, and the only way to do that is to provide adequate funding.

2. Provide strong and clear language in the MFCMA asserting U.S. jurisdiction over U.S. origin anadromous species, and establishing the basis for a defensible rebuttable presumption for U.S. salmon and steelhead caught on the high seas.

3. Strengthen the Driftnet Act. One of the problems with the

negotiation process conducted under the Driftnet act was the lack of suitable negotiating clout on the part of U.S. negotiators. To date, the certification and sanctions in the Act have not been a credible threat to the other nations. The sanctions under the Pelly Amendment need to be broadened to include possible sanctions of any product imported from offending nations.

4. Step up efforts to develop a cooperative relationship with the U.S.S.R. on these issues. Negotiations need to proceed as soon as possible on the salmon and donut hole proposals already on the table. The provisions of the MOU on enforcement which was signed in February need to be implemented, and further cooperative enforcement arrangements need to be pursued where appropriate.

While international fisheries problems clearly are within the domain of the Congress, you likely have heard that problems such as waste and bycatch are allocation problems that should be handled by the regional fishery management councils, not by the Congress in legislation. The State of Alaska places a high premium on the effective operation of the regional fishery management system created to govern domestic fisheries under the MFCMA, and we are not here to ask the Congress to get into the allocation business.

However, though the Act has been a remarkable success since originally passed in 1976, the transformation of fisheries within the U.S. exclusive economic zone (EEZ) from foreign to almost

wholly domestic operations has created new management problems not foreseen at the time the Magnuson Act was passed. It is time for Congress to reassert its leadership in shaping U.S. fisheries policy to meet the reality of the "Americanized" EEZ. Elements of that reality include:

- an offshore fleet that may rapidly be approaching overcapitalization;
- the increased use of nonselective harvesting methods that make both management and allocation more difficult;
- uncertainty over the fate of shorebased processing;
- increased concern over fishing practices such as "roe stripping," drawing attention to the problem of waste;
- an information gap on both directed catch and bycatch caused by the shift to domestic operations and the lack of observer data in those fisheries;
- severe budget cutbacks during this period of explosive growth in the U.S. industry in the very agency responsible for managing fisheries in the EEZ.

The significance of fisheries to Alaskans underscores the importance of facing these issues. In order to realize fully the potential long-term benefits from our fishery resources, we urge

the Congress to strengthen the MFCMA by beefing up the conservation measures in the Act, and improving our management system by making sure the regional councils and fishery managers have the information base and resources available to make it work.

1. Strengthen conservation standards in the Act.

Congress should strengthen the hand of the councils and give a clear signal to fishery managers regarding conservation of our nation's fishery resources. Although "conservation" comes before "management" in the MFCMA, to date implementation of the Act has emphasized pursuit of harvest efficiency and economic return to the harvester more than it has promoted conservation. Because the national standards mandate economic efficiency and fairness in allocation, bycatch is treated more as a cost of doing business than as a form of waste. Indeed, nowhere in the Act is "waste" even defined. Even though the present language of the Act has been used to argue for regulation of bycatch as well as against it, the focus of the Act and accompanying regulations on commercially valuable species and economic efficiency has made it difficult for regional councils to grapple with the bycatch problem.

We question whether, for example, the current practice of allocating a portion of the annual total allowable catch of a particular stock to a fisherman who throws it overboard as discarded bycatch is really an "efficient" use of that resource if it precludes another fisherman from taking that

specie in a targeted fishery. Without delving into the nuts and bolts of actual allocation, Congress should provide policy direction and leadership to the councils on the issue of conservation and wise utilization of our fisheries resources. At a minimum, the State of Alaska urges the Congress to:

- Strengthen the conservation provisions in the Act to address waste and conservation issues. The purposes and national standards of the MFCMA set the standard for fisheries management and utilization. Conservation of our fisheries resources should be the primary purpose of the Act, full utilization of caught fish and the elimination of wasteful practices should be a major goal.

- Require 100 percent observer coverage on all fisheries unless a fisheries management council decides that it is not warranted. Such a provision in the act would ensure action by the councils to address fisheries where 100 percent observer coverage is not necessary or practical, yet would also ensure coverage of those fisheries where information is needed. Most importantly, it would set a high standard and would provide the flexibility to fishery managers and the councils to develop programs which take into account the differences among various fisheries.

2. Support the regional council process.

In promulgating a comprehensive national fishery policy in

1976, the Congress had the wisdom to keep the day-to-day management of EEZ fisheries in the regions where the fisheries occur. The system of eight fishery management councils puts decision-making where it belongs--where the decision-makers are accountable to the fishermen and communities affected. We urge you to reaffirm this system through policy guidance in reauthorization of the Magnuson Act and through retention of the current membership composition of the North Pacific Council.

3. Maintain a reliable funding mechanism for fisheries management and research.

Observer programs, fisheries research, and fisheries management activities are all costs of doing business if we are going to manage our fisheries in a manner which ensures the long-term biological health of our stocks and maintains the economic base of the industry. It is a sad commentary on our national budget priorities when the National Oceanic and Atmospheric Administration (NOAA), the agency responsible for managing the fishery resources of our EEZ, has a smaller budget for the entire North Pacific than the State of Alaska allots for its nearshore management programs. These are the same resources that, as seafood exports, account for one of the few positive trade balances this country has with Japan.

The Administration's proposed budget for FY 90 will gut NOAA's ability to provide data collection, research, management, and

enforcement so critical to protecting and conserving our fisheries resources. Not only does the proposed budget fail to address the increased challenges of expanded U.S. fisheries in the North Pacific, it deletes nearly $7 million from critical activities including support of the regional management councils and action to reduce high seas interception of U.S. salmon.

Governor Cowper has joined with Governors Gardner and Goldschmidt in asking your support for more realistic support for NOAA in the federal budget. In addition to tax dollars, though, industry will have to share the burden. Fishing in the EEZ is one of the few resource extractive activities which uses a publicly-owned resource without paying leases, royalties, or other fees.

The industry in Alaska contributes revenues to cover the costs of state fisheries management. We believe this should be the case in federal fisheries as well, particularly since many of these stocks are being managed without sufficient information. The industry benefits from a strong research and management program as well. As managers acquire more precise information, they can more accurately and efficiently allow the utilization of a particular stock. Any steps taken to accomplish this goal should ensure that the fee structure is fair and equitable, and that fees collected from a particular region are applied to fisheries management programs in that region.

Thank you for this opportunity to provide you these comments. If there are any questions, I will be pleased to answer them.

Senator STEVENS. Thank you, David. I'll have some comments later.

Let me hear from Paul Fuhs now.

Nice to see you again, Mr. Mayor.

STATEMENT OF PAUL FUHS, MAYOR OF UNALASKA

Mr. FUHS. Thank you. And I'd like to thank you, first, straightoff, for the vision which you and Senator Magnuson and other people had in passing the original Magnuson Act, Fisheries Conservation and Management Act. Our communities certainly are the beneficiaries of that vision.

Our port of Unalaska/Dutch Harbor, of which I am the mayor, was the number two port in the U.S. in bottomfish landings last year. Our concerns deal with the conservation and management issues.

One concern that we do have is the reductions which are being proposed in research for fisheries in the Pacific Northwest in the National Marine Fisheries Service budget. I know it's difficult to get that funding when senators from other states are saying that they're getting a public resource for free; why should we use our tax money to finance this? And I think that if any fees are to be assessed on the industry in this reauthorization, that they ought to be targeted to research, and that the funds which are collected in that region should be returned to that region for research. We don't want a lot of fees on the industry because we have to compete in the international marketplace, but I think, especially in this area of research, if it's justified anywhere, it's justified in this area.

One concern we have with the long-term conservation and management of the fisheries is overcapitalization. And everyone is really concerned about it. We've been speaking on the issue for that couple of years before the Council. And because, maybe, the issue really hadn't come to a head—we haven't really gotten to the point of overcapitalization yet, plus it's politically sensitive—the Council really has been—although they've been willing to discuss it, has not been willing to do anything about overcapitalization so far.

I think that some of the limited entry schemes that have been proposed, as Oscar mentioned, because of the lack of participation so far in some communities, if the quotas or licenses are given out on past experiences, some communities which haven't participated yet in the fisheries will be disenfranchised from the fisheries. So we had always talked about some type of a community development quota where some portion of the quota would be identified for small coastal communities that had not yet participated in the fishery.

We certainly don't need it in Unalaska/Dutch Harbor. And I think, you know, Kodiak is also well-developed. We're talking about the far-western Alaska communities that are close to the resource, but haven't developed any fishery yet.

We wouldn't be asking Congress to make that allocation, but simply to put some type of enabling legislation which would allow the Councils to separate some portion of the quota for community development quota.

In the absence of any limited entry, we are forced to look at this issue now of shorebased and factory trawlers. And our concerns are also over the waste—not just the by-catch, but also the waste—of targeted species. Some of the factory trawlers that have been coming in, crew members are saying that sometimes as much as 70

percent of the catch is dumped because the fish are either too small or too big for the machinery on board. They have no fish meal plants, so they're just dumping it into the ocean, which is a source of pollution.

If they are dumped in a quantity large enough to cause anaerobic conditions, then it can spoil the bottom of the ocean. We certainly had that happen two years ago, where during roe stripping operations, during pollock spawning season, so much fish was dumped that it killed the scallop fishing beds where our local fishermen were fishing scallops.

We have always thought that it would be a combination of factory trawlers and shorebased plants, and we still believe that. Our concern now is that, while with the building of two new plants in Dutch Harbor, the shorebased component will be able to process about 50 percent of the catch, the factor trawler component is already almost at 100 percent. And if you take—can almost process 100 percent of it. And if you look what projects are on-line in the pipeline, and coming on, that segment of the fleet will be tremendously overcapitalized.

We're concerned not only about the effect that overcapitalization has had on resource depletion in the history of other fisheries, but for the economics of it. It'll result in compressed seasons, shorter and shorter seasons. If we get down to, like, the halibut season is, with one and two day openings, or even two and three week or two and three month openings on pollock, our shore plants are in big trouble. Even if we're able to maintain the health of the fish stocks, if we can't fish over a larger portion of the year, it will destroy the economics of the shorebased plant, and that's what our communities depend upon.

We've also made a lot of investments in servicing the factory trawler fleet, and some of our local businesses do make a lot of money from the factory trawlers. So we are not trying to eliminate them in the Bering Sea fisheries.

Some other proposals that we've made to the Council deal with a split quota where, let's say, half the quota is identified for shore plants, and half is identified for factory trawlers. In that case, even if the factory trawler fleet continues on this suicidal plunge into overcapitalization, they will not drag the shore plants down with them. Any language which is necessary to enable the Council to make these types of allocations, we think would be important to be considered by Congress in the reauthorization.

One thing that have heard suggested that we'd like to speak up against, and that is any changes in the makeup of the Council. And I read Ted Evans' testimony, and he's complaining that they don't have any representation, and thinks that getting additional seats from Washington or Oregon will fix that. Well, they've already got five seats, and if they don't have enough political sophistication to get one out of five seats when they are one of the major components of the fishery, then that is their own problem. That is not the problem of the Magnuson Act.

I'd like to thank you for coming up and holding these hearings in Alaska, so Alaskans can get a better chance to participate. Thank you.

[The statement follows:]

STATEMENT ON FACTORY TRAWLERS AND SHOREBASED PREFERENCE

The North Pacific Fisheries Management Council made a call for proposals for inshore/offshore designations to maintain supply of fish to shoreplants in Alaska. The Unalaska City Council passed a resolution asking the NPFMC to analyze several options for accomplishing this goal before making any final decision.

These options included identifying inshore areas for shoreplant deliveries only, a split quota with part assigned to shoreplants and part assigned to factory trawlers, a shorebased preference to quota, a share quota system, and timing the season to reduce fishing on pollock during the spawning season.

This is not a move to eliminate factory trawlers. They are an important part of our economy and mean millions of dollars to local businesses. We have always felt that there would be a mix of shoreplants and factory trawlers processing in the Bering Sea. The city has worked hard to attract shoreplants, but we have also put alot of effort into building the infrastructure necessary for servicing the factory trawler fleet.

The concern we have has to do with overcapitalization of fishing and processing capacity. In other fisheries, overcapitalization is the first step towards depletion of the resource. The NPFMC has been unwilling to agree to an effort limiting system so far, although many people have spoken on the issue.

For me, the system which shows the most promise for rationalizing effort with available fish is a share quota system and I have spoken on this on several occasions. However, many people have spoken out against any form of limited entry also so the NPFMC has not moved forward on this issue.

With the new shoreplants going into Unalaska, we will be able to process around 50% of the quota for the Bering Sea. Within 1 year, the factory trawler fleet will be able to process 100% of the quota and many more factory trawlers are on the drawing boards in various stages of development and construction.

Even if this does not result in a depletion of the resource, it will result in shorter and shorter seasons which will mean financial ruin for shoreplant and factory trawlers. The proposal to split the quota for instance, between shoreplants and factory trawlers would at least mean that if the factory trawler fleet severely overcapitalizes itself, at least they will not drag the shoreplants down with them.

All of us need to seriously work on the problem of overcapitalization together and convince the NPFMC to do something about this problem. If they will not address this issue, then we are forced to seek other methods for protecting the shoreplants which are a substantial economic base of our community.

One thing we can be thankful for is that the NPFMC has voted to require 100% observer coverage on factory trawlers over 125' and also on shoreplants. This will provide us with the data necessary to better manage the fishery.

Senator STEVENS. Thank you, Paul. We appreciate your coming. Lamar.

STATEMENT OF LAMAR COTTEN, ADMINISTRATOR, ALEUTIANS EAST BOROUGH

Mr. COTTEN. Thank you, Senator.

I'm Lamar Cotten, testifying on behalf of the Aleutians East Borough. I am currently the borough administrator. I think normally the mayor of the borough, Dick Jacobsen, would probably be here testifying. However, Mr. Jacobsen, like most residents of our borough, is currently fishing.

I'd like to, if I could, just summarize the key points of my written testimony.

The Aleutians East Borough is a duly formed municipal organization. It was organized in 1987. It's composed of six communities in the Aleutians, Sand Point, King Cove, Cold Bay, False Pass, Nelson Lagoon, and Akutan. About 85 percent of the residents in the area are involved in fisheries, either directly or indirectly. We have a local fleet of about 250 vessels, estimated at approximately $80 million. In addition to that, there are five plants in the borough. Trident Sea Foods has a plant in Sand Point and Akutan; Peter Pan has a plant in King Cove and Port Moller; and Deep Sea Fishery also has a plant in Akutan. Last year the plants processed approximately $130 million worth of fish, both salmon, crab, and bottomfish.

In addition to that, I think it should be noted that the fishermen in our area have been commercial fishermen for over 100 years. The Sand Point area, in fact, was the world's largest producer of salted cod in the early 1920's. Since that time period our fishermen have been involved in shrimp, herring, halibut, various species of crab, and of course salmon.

Recently, in the last couple of years, the local fleet has been regearing mainly their purse seiners—limited entry purse seiners—for dragging for cod, which is a large harvest ground southwest of King Cove and Sand Point. In addition to that, there are a number of people that are regearing and investing into longlining and pot fishing.

I think the things that concern the residents of the area—I think just to summarize those points—would be one, is, as Paul mentioned, the overcapitalization of the trawling fleet. It's our understanding that as more and more trawlers enter the Gulf and the Bering Sea, that to keep afloat, they are going to require more and more time in the water. That, coupled with the fact that fuel prices seem to be going up, is going to put their operations in a more difficult situation to survive, unless they continue to increase their fishing.

This obviously has a direct effect on the small independent fishermen, both the local and nonlocal fishermen that provide product to our local plants. I think it puts them in a precarious situation, and I also think it puts people such as Trident and Peter Pan in a very difficult position to not only maintain their plants as they are now, but also to make future investments. And clearly our local fishermen, along with those fishermen from the Northwest, are

intertwined with onshore plants. I don't think there's another place for them to deliver.

So in short, that has a direct effect on us, and we feel that some type of signal or regulation, either through Congress or the Magnuson Act, has to be implemented that puts some kind of restrictions on the number of trawlers.

The second point I'd make is the fact that I think the argument—the issue between the factory trawlers and the shore plants has been inaccurately characterized as one of Alaska versus the Northwest. And I don't think that's accurate. I think it's one, in our situation, of the small independent vessel owner, who again is both local and nonlocal, versus the factory trawlers. And I think it's misleading to say it's just the old battle between Seattle and Alaska.

Our community, like most communities in the southwest part of the state, are members of the Southwest Municipal Conference. I realize Jerome isn't here, and I think he'll—when he does arrive, he'll give the position of the Southwest Municipal Conference. But as a matter of record, the Aleutians East Borough and the communities of Sand Point, King Cove, and the other ones, are on record supporting the concept of some type of onshore priority for product. I think, if we're to encourage communities like Sand Point and King Cove to be involved in the fishery, if we want the small-time fishermen to invest, regear their vessels, there has to be some type of consistent ground rules that would encourage them.

As the other speakers have mentioned, I appreciate your holding the testimony, and I hope you have a good stay.

[The statement follows:]

TESTIMONY OF THE ALEUTIANS EAST BOROUGH
BEFORE THE SENATE COMMERCE COMMITTEE
ON THE REAUTHORIZATION OF THE MFMCA
ANCHORAGE, ALASKA
JULY 6, 1989

Mr. Chairman, my name is Lamar Cotten and I am testifying on behalf of the Aleutians East Borough. I am the current borough administrator for the Borough. The Borough had anticipated that the current borough mayor, Dick Jacobsen, would present this testimony before your committee. Unfortunately, Mayor Jacobsen, as well as the vast majority of the Borough's other residents, is engaged in the summer salmon season.

The Aleutians East Borough is in essence a borough of fishermen. Over 85 percent of our combined economy is directly tied to the fishing industry. The Borough includes the communities of False Pass, Sand Point, Cold Bay, King Cove, Nelson Lagoon, and Akutan. It has a total fleet of 250 vessels worth over $80 million. The traditional economic mainstay of our communities has been the various salmon and crab fisheries which is regulated by the Alaska Board of Fisheries. Our fishermen have, however, branched out into a variety of federal groundfish fisheries in the last few years. This includes an extensive longline fishery for blackcod and halibut and a growing fleet of draggers (presently 12 to 15 vessels) for greycod. Additionally, a number of major onshore processing plants are located in Akutan, Sand Point, King Cove, and Port Moller.

The Borough and its residents therefore have a keen interest in any regulatory or legislative action which would influence the ability of our fishermen to participate in the federal fisheries.

We know that the North Pacific Fishery Management Council and the U.S. Congress are currently struggling with the issue of a fair and equitable allocation of the fishery resources among competing users in the Gulf of Alaska and the Bering Sea. This is the key issue for our fishermen within the context of the MFCMA reauthorization. The Borough's comments are therefore limited to that subject.

We have watched with alarm the growing over-capitalization of the offshore factory trawler fleet. It is our understanding based on comments made at various Council meetings that most of these trawlers must operate for over 300 days a year at full capacity in order to service the debt incurred in their construction. If this level of effort is in fact being contemplated by these trawlers, there will be tremendous economic pressures to fish on any large concentration of groundfish wherever located. This would include the concentrations of greycod and blackcod located close to shore in the Bering Sea and the western Gulf of Alaska. Additionally, the increase in bunker fuel rates threatens to impose new burdens on the economic feasibility of this fleet, and may force the factory trawlers to even greater levels of fishing activity.

Such fishing activity would sound the death knell for participation in such fisheries by the residents of the Borough. Our fishermen operate relatively small vessels, and are therefore dependent on fish populations located close to shore. We believe that the factory trawler fleet will intensively fish on the greycod and blackcod stocks near shore, thus depriving our

fishermen of an opportunity to participate in the fisheries. Even if time proves that factory trawler operations are not economically viable, their struggle to survive in an over-capitalized market may drag other fleets down with them. This would not only include the Borough's local fleets, but also the offshore trawl fleets based in Washington and Oregon which currently supply fish to the onshore processing industry.

That is the dilemma facing both resident and non-resident independent fishermen operating in Alaskan waters. We believe that the MFCMA was structured in a manner to prevent these type of disruptions, both from conservation and socio-economic standpoints.

The legislative history of the MFCMA clearly shows that the U.S. Congress was concerned about the ability to protect the long-term viability of the fisheries in the face of unregulated foreign fishing off the coastal waters of the United States. The Congress was also concerned that allocation decisions be done fairly and equitably on a non-discriminatory basis. These two Congressional goals cannot be accomplished if factory trawler over-capitalization is permitted to irreparably harm other U.S. fleets dependent on the federal fishery resources.

The MFCMA establishes a standard that allocation decisions shall be made on a fair and equitable basis to all fishermen in a manner which doesn't discriminate between residents of different states. The Borough submits to this Committee that the current management policies which permit the factory trawlers to take the entire groundfish quota in the Bering Sea and the Gulf of Alaska

comes at the expense of the vast majority of the rest of the industry, and is thus not a fair and equitable allocation. Although it is clear that the MFCMA does not contemplate the allocation for fisheries purely on economic grounds, it is also equally clear that the socio-economic implications of a fishery are permissible factors in making fishery management decisions which promote a fair and equitable allocation of the fisheries resources.

The failure to control factory trawler capacity in the Gulf of Alaska and the Bering Sea affects both residents and non-residents alike. The Borough feels strongly that something must be done to ensure all fleets have the ability to participate in the federal fishery. The Borough and its communities are working with the Southwest Alaska Municipal Conference and the Kodiak community to put together proposals for the Council designed to promote the twin objectives of sound conservation and a fair and equitable distribution of the fisheries.

These proposals may in fact include provisions to assure a fair allocation of fish to harvesters which supply domestic onshore processors. The Borough would support this approach with the understanding that the onshore processing industry represents the sole markets for its local fleets. It is critical that these processors have access to fish throughout the year in order to remain economically viable. The fleets of both residents and non-residents are unavoidably intertwined with the onshore sector.

A word of caution to the onshore processors, however, is

appropriate at this time. In order to preserve the support for the Alaskan small boat fleet, the onshore processing industry should take care to remember to treat the Alaskan fleets with the same respect shown to the non-resident fleets. Many within the Alaskan small boat fleets have traditionally felt like second class citizens. Progress in this regard is being made in the Aleutians, but much more can be done to strengthen the bonds between the onshore sector and the local fleets.

The Aleutians East Borough submits no formal recommendations today on specific legislation to deal with this issue, although we reserve the right to comment on any such legislation in the future. The Borough would, however, like to leave a thought with the Committee.

It is possible that the issue of domestic allocation in Alaska may be dealt with in the context of MFCMA reauthorization. The more likely scenario is that the Council will approve changes in the management structure which would serve to change the fishing industry. In either event, parties on both sides of the issues will be lobbying Congress and the Administration for support. Members of Congress should look closely at arguments that somehow this is a fight between the Seattle fishing industry on one hand and Alaskans on the other. Such is not the case. This is an allocation battle between competing users. The facts will support the conclusion that allocation decisions are not designed to discriminate among fishermen of different states. Alaskans operate factory trawlers. Many of the fishermen and processors concerned about factory trawler over-capacity are

based in Washington and Oregon. It is easy to pigeon hole the debate as that of one state against the other, but the facts indicate otherwise.

The real issue is the battle to survive being waged by the independent fisherman in the wake of a new, highly efficient corporate fishing industry financed in large part by foreign capital. Residency is not a determining factor in this context. The Borough urges Members of the Committee to focus on the real issue, and avoid any effort to politicize the fishery management process by making it a fight between the states.

Senator STEVENS. Thank you. And we'll hold a spot for Jerome when he comes, if he comes.

I apologize to everyone, really about the timing of this; I know it's the middle of fishing season. But when we go back we're going to have to deal with this question. We have to deal with it in July in order to get the bill out of the Senate and over to the House. If we're going to have a difference between the House and the Senate, it has to be settled in conference in September.

I am sort of looking for suggestions from those of you in the state and local government area to tell us how we could establish a shore-side preference, other than what you've just mentioned, in terms of a balanced allocation between the at-sea operators, the factory trawlers, and the shore-side plants.

Let me ask all of you this: Should the Council have a broad general authority to allocate quota between the floating processors and the shorebased plants?

Paul, I think it's your point of view that each community should have some sort of allocation within the shorebased allocation. Is that correct?

Mr. FUHS. Well, if some form of limited entry is put in, what we did propose is that you split it equally amongst the communities, and that the smaller communities would have as much of a share as the larger communities. And they need it more. They're the ones with a lot of social problems, reduced economic opportunities. So yes, that's true.

But I think what you were saying at first is also correct, that the broad authority for the Council to deal with these issues is what would be necessary. And as we read the act, coastal communities are mentioned a couple of times, but I think that part needs to be stronger, that they are identified as one of the key players as interest groups in the Magnuson Act, as well as fishermen and processors. And I think that that will help make it clear that the concerns of the economies of coastal communities can also be considered as a criterion by the Council.

Senator STEVENS. Well, aren't we going to run smack into the consumer groups in the south forty-eight if we take a direction

through national legislation that in effect ensures that the onshore processors, without regard to economics, will have half of the fishery?

Mr. FUHS. Well, right now how it's shaken out, when pollock prices really took a dive here about a year and a half ago, it got down to real marginal operations. They found out that the factory trawler, on pollock fillets, needed about a dollar a pound to survive. And the shore plants that I talked to that were processing felt they could go down to 70 cents a pound and still survive.

So the shore plant is actually turning out to be more efficient in some regards than the factory trawlers. And especially so, for the full utilization of the fish. We're not trying to create a special economic advantage here. We're just trying to keep one sector of the fleet which is seriously overcapitalizing themselves from destroying the economics of the entire industry. This is not going to result in higher prices for fish.

Senator STEVENS. Come on up, Jerome, when you get a chance, after you've conferred, because we have a spot for you at this table.

Mr. SELBY. Thank you.

Senator STEVENS. I don't know how to put this, but it seems to me that we ought to have some consideration by the state and by the local governments as to what type of Federal control we really want to be extended onshore, as a result of such an allocation. Currently, onshore operations are the states' jurisdiction. And we're saying the Council ought to have the right to allocate between at-sea processing and on-shore processing, and then to allocate between communities.

Now, do we really want that? I mean, is the Council going to say that Village A, or City B are going to get X-percent of the 50 percent, or is the state going to say that? Do we want the Federal Government to be setting up a process which would allocate between the shore-side communities?

Mr. FUHS. If you had a community development quota, perhaps it could go to the state to deal with that. As it is right now, the state really does not take any part in the bottomfishery management. Even though the state collects taxes on shorebased plants, it's really left to the Federal Government, although I think there is an issue that the state could manage the bottomfish fisheries within the three-mile limit. And certainly if the state took jurisdiction to 12 miles, there should be real serious consideration given to state management of some of those fisheries.

Senator STEVENS. Well, Lamar, you mentioned the price of fuel. Certainly that's going to be something that, over the time ahead, is going to become even more of a consideration, because we all see the price of fuel going up into the last decade of this century, and into the next century.

But as a practical matter, doesn't the state, within the three-mile limit, and the Council out in the water it has jurisdiction over now, currently have authority to limit the number of days a processor can operate?

Mr. COTTEN. I don't believe so. Within the three-mile limit?

Senator STEVENS. The state does within the three-mile limit, I'm sure.

Mr. BENTON. For the bottomfish fisheries, because the majority of it is offshore, most of that is taken care of by the Council.

Senator STEVENS. I see.

Mr. FUHS. It's all taken care of by the Council. The state uses some of its money now to provide an observer program, when the Federal Government would not do anything about that. There are state funds used for that.

Senator STEVENS. Well, clearly, the Council has the right to limit the number of hours and days, et cetera, a harvesting vessel can harvest. Right? Now, I've always felt that they had the authority, then, to regulate the amount of time that a processor could be processing under its jurisdiction. Apparently that is not shared by other people.

Mr. BENTON. Senator, I think part of the problem is that we run up against some of the national standards. And, like yourself the state haven't crystallized a specific proposal yet. We're grappling, as you are, with some of the nuances of the issue. I think, though, that there are some basic concepts that everybody pretty much agrees to in Alaska. As Paul has pointed out, we don't want to turn this into a either/or kind of a fight. We don't want it to be a Seattle versus Alaska kind of a fight. We don't see it that way. We want to make room for reasonable access for everybody.

The way that the breakdown in allocation has occurred between foreign, JV, and domestic processing seems to hold out a model for a system we could look at, where the act could provide some broad guidance in either the standards and purposes, or perhaps even in the actual mechanism, that would strengthen the Councils' hands, and perhaps allow the Councils, to allocate a certain portion of the resource to the shore-side plants.

I agree with you, don't think that we want to get into the position of having the Federal Government allocate between Dutch Harbor and Kodiak, or Dutch Harbor and Sand Point. That's an issue that Alaskans are better at resolving amongst ourselves. And I think everybody would agree with that.

However, I think what we do want to have is some language in the act that would provide the Councils with a strong hand to pursue those kinds of issues, and some broad policy guidance. I think that's really about the extent of where we could go with it at this stage.

There are some practical limits in what we can achieve in Congress in the short time that we have between now and September. We need to deal with this issue realistically. It's obviously significantly—our Kodiak plants are looking at not being able to operate for a large part of the year.

It's also why we raise the conservation and waste issue. To the state, conservation really does mean utilizing the resources in an efficient manner. And "efficiency" meaning that we try and make the best use of all the resources that we have. We don't think that it's really very efficient to allocate as by-catch a large portion of a specie that other fishermen who are efficient fishermen can make a living off of in a targeted fishery. And yet that's happening. You saw the film. It's happening directly, and indirectly.

If we don't have observers on those vessels, and if we don't provide some broad guidance to the Councils regarding conservation

and what efficiency really means, and what waste really means, then we're missing a big piece of the puzzle and failing to meet our responsibilities.

Senator STEVENS. Well, you're right. Absolutely.

Clearly, the conservation position is the position that led the Federal Government to pass the Magnuson Act. And I think that if we can redirect the attention of everyone to the question of conservation, that the shorebased facilities are bound, in the final analysis, to come out ahead.

Mr. BENTON. Yes, we support that, too. We think that the ability to sort product and to address by-catch issues is a lot easier to be handled out of a shorebased plant.

Senator STEVENS. Let me welcome the president of the Southwest Alaska Municipal Conference, from Kodiak, Jerome Selby.

Jerome, good morning.

STATEMENT OF JEROME SELBY, MAYOR, KODIAK ISLAND BOROUGH; PRESIDENT, SOUTHWEST ALASKA MUNICIPAL CONFERENCE

Mr. SELBY. Good morning, Senator. Sorry I got here late. Plane schedules aren't always ideal, but we had a good flight this morning.

I appreciate the opportunity to testify here this morning.

I am the mayor of the Kodiak Island Borough, and as you indicated, the president of the Southwest Alaska Municipal Conference.

I think we are discussing what may be the most important fisheries policy decision here to take us into the 21st Century, and that's the renewal of the Magnuson Act, which we obviously support the renewal of that act. And we also support, as you were discussing here, the inclusion of the concept of the onboard observers, as well as particularly the shorebased preference in the allocations process.

While at the moment there's some variations—and I think that flexibility can be put into the act, exactly how the shorebased preference would work. Certainly, shorebased preference is a key concept to us.

Let me just—apparently you've talked a little bit about some of the problems we've had there, and certainly we've all watched while the Magnuson Act has effectively reduced the foreign fisheries, and then totally eliminated them, except for the joint venture fisheries, and then slowly the joint venture fisheries were phased out. And now we have a much harder decision to wrestle with, and that's the issue of how to allocate amongst American fishermen. And we recognize that that's a hard decision.

But we feel that the Magnuson Act's original intention—and you can certainly speak to that better than I can, since you've been involved with it—but we feel that part of it was to put an economy into local communities on the coast of the U.S. of America. And that's what shorebased preference, then, we feel is, as a natural extension of the Magnuson Act and its original intention.

The bottomfish offshore of Alaska represents basically the economic development future for Alaska, particularly in the South-

west Conference area, but it's the entire coast of Alaska, and in fact the entire coast of the United States to a certain extent. We feel that it's a national interest issue because the best interest of the Nation is to provide an economic base for coastal communities throughout the United States. And the difference is, is that if we don't do this, the communities will have to rely on handouts from the U.S. Government for existence, and the people in those communities.

We have the opportunity to not just hit the Federal system for more money. There's really no need to pump money to people who could be working in the fisheries. The difference is, is the shorebased allocation.

Factory trawlers, as you know, wiped out the pollock quota in the Gulf of Alaska. Particularly Kodiak was hit with that this spring, in late March. Since that time, they've taken the entire allocation of black cod and rockfish. I'm told that the Pacific cod will probably be gone within about a month, again, from the factory trawlers. And that basically means there are no species left for Kodiak canneries for this fall.

We've watched 17 trampers load out this resource just outside of the city limits of Kodiak, in our bay, just outside the corporate city limits, this spring. Normally we see about two trampers in there in a year's time. But so far in 1989, we've watched 17 of them load from the product taken by these factory trawlers while we sit on the shore with our canneries shut down.

The situation, in perspective, is that, first of all, the entire capability of the shorebased plants in the city of Kodiak is approximately equivalent to the production capacity of one factory trawler. Just one. The investment of the Kodiak community—and certainly you're aware of that—is in excess of a billion dollars of private investment into homes, factories, and plus the U.S. Coast Guard base, which is a considerable Federal investment.

And thirdly, the same amount of fish, then, which keeps one factory trawler functional, drives an economy for a community of 13,000 people. And that's the trade-off that we're talking about.

We've asked before, what's in the best interest of the United States? Eliminate jobs for a community of 13,000 people, or to allow one factory trawler with a few people working on it to continue to operate? Our recommendation, obviously, is simply that we go with the shorebased allocation, and give the preference to the shorebased. If there's sufficient quantity of product there, certainly the factory trawlers should be allowed to process it. And at this point in time, certainly in the northern Bering Sea, the factory trawlers are the only feasible means of processing the fish in that area.

We feel it's a fairly simple concept. But if you take the example I've just given you from Kodiak Island, you basically get the same situation at Dutch Harbor, Sand Point. Other Alaska communities have the potential of developing this along the coast of Alaska, as well as along the coast of the entire United States. So it's a trade-off that we're looking at, Nation-wide.

So it really is a national policy issue, we feel, and it's the trade-off of a few jobs for factory trawlers, versus a lot of jobs for shore-based communities throughout the U.S.

That's fairly much a summary of our concept, Senator. If you have any questions, I'd be glad to answer them.

[The statement follows:]

STATEMENT OF JEROME SELBY, MAYOR, KODIAK ISLAND BOROUGH

Good day Mr. Chairman and Members of the Council. My name is Jerome Selby, Mayor of the Kodiak Island Borough and President of the Southwest Alaska Municipal Conference. I am here to testify on the most important United States fisheries policy decisions of this decade. These decisions will determine the survival of coastal communities in the United States and will impact the coastal economy well into the 21st century. Dependent on these decisions, our children and grandchildren will speak of our wisdom in providing for long term good management and economic strength for the coastal United States, or they will speak of our shallow understanding and inability to set aside short term greed and petty differences to avoid economic and resource management disaster. I am here today to urge your action for economic strength in the removal of what we refer to as the Magnuson Act.

The National policy issue facing us is the issue of allocation for shorebased processor preference. This issue has ramifications for the entire United States and it is in the National interest of the United States to have you pursue this policy at this time. Shorebase processor preference is simply a natural extension of the Magnuson Act to its ultimate conclusion and intention. It is very clear from the Magnuson Act, that the Legislative intent was to provide for the

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economic base for shorebase facilities in areas where fisheries were abundant. At the time of the passage of that Act, very little local fishery was taking place because of foreign fishing activity. We have all watched as the application of the Magnuson Act has effectively reduced foreign fisheries and then totally eliminated them except for joint venture fishery. More recently, the joint venture fisheries have been virtually eliminated as the fishery has become totally American. Now we must come to grips with a much harder decision. How do we allocate resources amongst American fishermen? We feel that the Magnuson Act is very clear that the intention is to provide an economic base for local communities. The bottom fish resource off shore represents the economic development future for Alaska. The decision before you today is whether it is in fact in the Nation's best interest to provide an economic base for coastal communities throughout Alaska and other states, or is it preferable to turn those communities in the coastal part of the United States into a welfare state with little or no fishing activity. These communities will then rely on handouts from the United States government for existence. The result of such a decision is a bigger demand on the tax base of an already troubled Federal system. Should we increase the Federal deficit to pump money to people who could be working in fisheries, but in fact have no jobs because there was no allocation of fishery to the shorebase?

You know that the Factory trawlers wiped out and exceeded the pollock quota in March. In addtion, since April the factory trawlers

have taken the entire allocation of black cod and rock fish and I am told the pacific cod will be gone in one month. This means there are no species left for our canneries this fall. We have watched 17 trampers load all this resource just outside the Kodiak City limits this spring.

Let me put the situation in perspective for you.

1) The entire capability of the shorebase plants in the city of Kodiak is approximately equivalent to the production capacity of one large factory trawler.

2) The investment in the Kodiak community is in excess of one billion dollars.

3) The same amount of fish which keeps one factory trawler functional drives an economy for a community of 13,000 people as opposed to a few people working on the factory trawler.

I have asked is it, in fact, in the best interest of the United States to eliminate jobs for a community of 13,000 people in order to allow one factory trawler to continue to float around and harvest resource at various locations? The factory trawler already has an advantage of being mobile and being able to fish in many different areas. In Kodiak this fall, the canneries will be empty while the factory trawlers float off to another fishery. Our recommendation is simply this, that first, there should be enough allocation to drive the economies of the communities in the area of fishery and then the

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additional allocation of quota, if it is available, would be available for the floating factory trawlers. I think it is a very simple concept, and I think it is in fact the ultimate intention of the Magnuson Act that this is exactly what would take place. We are talking about jobs for an awful lot more people generated by the same amount of fish product. You can take the example I have just given you for Kodiak Island and can apply the same situation to Dutch Harbor, Sand Point, and other Alaskan communities such as Bethel, Dillingham, and to communities on the coast of the entire United States. The issue at hand folks is an issue of whether or not it is desirable to provide employment for literally thousands of people on the coast of the United States, thereby providing an economic base to many states. In Alaska, the economy is in a shrinking situation and these fisheries represent an opportunity to keep from turning Alaska into a giant welfare state which drains additional dollars off of the National treasury. Now is the time that we have to make that decision. On the other hand, there is an opportunity of a few hundred jobs, a few surviving factory trawlers which will survive bankruptcy in the next few years because there is just simply not enough product out there to keep everything afloat that is already constructed and/or under construction for processing. As is always the case, the American fisherman has demonstrated that he is more than capable of going out and eliminating any biomass of fish no matter how huge it begins.

Now I recognize that there are some folks who will oppose our requests. However, I defy anyone in this room or elsewhere to tell me that healtny economies in coastal communities is <u>not</u> in the best interest of the United States. I therefore request the support of those other interests and their cooperation to provide a shorebased preference in a way that is least damaging to their interests instead of opposing National interest.

Throughout the history of the United States, the major turning points in this country as it has grown to world leadership have been marked by the raw courage of a few individuals who were willing to set aside personal interest and face criticism from special interest groups in order to forge a stronger, greater United States of America. The shorebased preference issue is a major turning point issue now. The economic well being of the coastal United States and indeed, the nation is at risk. We the people need a courageous stand for shorebased preference. I urge you to take that stand today.

Senator STEVENS. Your Southwest Conference has a unified position on this subject, I assume.

Mr. SELBY. That is correct. We're unified as far as shorebased preference. We're talking among ourselves a little bit about a couple different ways of making that happen.

The Unalaska folks are thinking in terms of a circumference around the islands there—a 150, 154 mile circle, I think it was. But we don't see that as being inconsistent. I think it makes sense there, because again, in the Bering Sea, you've got—the fish can only be harvested and brought to Unalaska/Dutch Harbor from a certain distance, feasibly, and still keep the quality of the product. And beyond that distance, into the northern Bering Sea, at the moment it makes more sense to use a factory trawler.

But in the Gulf of Alaska virtually all of the product is a distance of—from Sand Point and Kodiak there's enough coastal communities along the Gulf there, and the same thing in southeast Alaska, that we just—you know, there's not really a need to use farther-ranging ships. It's all within a deliverable port's distance, where the catch can be taken.

Senator STEVENS. Well then, you're really suggesting that we authorize the Council to have the authority to establish zones within its area, and prohibit the floating processors from processing fish from specific zones; to reserve the fish harvested from specific zones for shorebased processing. Is that right? Are you suggesting that?

Mr. SELBY. Well, I guess zones may be an option, but from our perspective it seems that if it was clearly stated in the Magnuson Act that shorebased preference was the national policy, and that we recognize that this is what drives the coastal economies, and that's the first priority, then it seems to me that Council within its decision-making process can then take a look at what makes sense in the various areas. And so instead of necessarily forcing a zone system, it seems to me that you can just simply have it as the policy, and the Council is to work within that policy. It has the latitude, then, to deal with the variances that—such as the one I just described where the Bering Sea and the Unalaska situation is a little bit different than the Gulf of Alaska situation. But the concept of shorebased preference would still apply in both cases, and you could easily manage that.

Senator STEVENS. At the time we passed the Magnuson Act we had no domestic floating processing capability. The alternative was either foreign processors, or shorebased plants. And now we don't have the luxury. We have a combination of ownerships. And we have total Americanization at the 200 mile limit as far as harvesting is concerned, but we now have an increase in domestic floating processing vessels, albeit some of them probably have close associations, at the very least, with the former owners of the foreign processing vessels. And that's the dilemma. I think our system has outwitted itself to a certain extent. We now have the greater pressure from the "domestic" processors at sea than we used to have from the foreign harvesting processors.

Mr. SELBY. Exactly.

Senator STEVENS. Very interesting dilemma.

Yes, Paul? You said something?

Mr. FUHS. I wanted to clarify. We've suggested in Unalaska—we've asked the Council to analyze several options for achieving this goal of providing some protection to the shorebased plants. One of them was an area closure. One of them was a split quota. Another one was a share-quota system, which we feel would deal with the question of overcapitalization and the shorebased preference. And we ask for all of those to be put on the table. We're not necessarily supporting any particular one of them until we see them analyzed. And part of the reason for that is the question over which of these will be legal. Well, that has to do with what occurs with the Magnuson Act, what will be legal during the reauthorization. That's why we're coming to you with some of these issues.

And one issue that Jerome raised and that you're going to hear over and over again is, people are going to talk about efficiency. I think it's important how we look at that. During the testimony on roe stripping there were some factory trawlers that stood up and said, "This is the most efficient method to process the fish. We're only keeping three to five percent of it, but we're getting the most amount of money for the least amount of labor, and we're getting the highest return on our investment."

And to me, to have a whole fleet of factory trawlers stripping the roe without observers, and no scientific research data being accumulated from that, if that is the end outcome of the Magnuson Act, that will be very tragic, not only for our state, but for the whole nation. I think we need to step in there and——

Senator STEVENS. Well, the Magnuson Act was not targeted at efficiency in the sense of operations, it was targeted at protecting the species. Now, I think that we have to redirect everyone's attention to what the Magnuson Act was for. It was a conservation measure, not a measure designed to protect either shorebased fishermen, or floating processors, or foreign fishermen. It was designed to protect the species for reproduction in our national interest. And I think what we've got to do is find a way to redirect attention to that.

Unfortunately, I'm sure you all know, to a great extent this area, this Council area, is probably unique in having these problems right now. To my knowledge, the other Councils are not facing similar problems. And we have a difficult time in convincing Congress that this is a national issue.

Go ahead. You were——

Mr. FUHS. Senator, if I could just finish. You are correct in that. I'm just saying that as this issue is coming up, you're going to hear a lot about efficiency. People are going to tell you, "Well, this is the most efficient way to do it." What we're saying is that to look at efficiency in terms of what it provides to coastal communities, overall employment, and the overall benefit definitely needs to be considered. That's why we want coastal communities identified as having equal standing within the act, along with fishermen and processors.

Senator STEVENS. Okay. David.

Mr. BENTON. A couple of points, Senator. I had the opportunity a while back in Kodiak to meet with legislators from California, Oregon, Washington, Idaho, and Alaska on a number of issues. We were just sitting around talking informally, and they were expressing a lot of concern—or, a couple of the West Coast legislators were

expressing concern about competition between offshore processors and some new plants that they're putting in. They were remarking that they were experiencing the same kind of problems that they were hearing about in Kodiak.

Senator STEVENS. Hawaii, you say?

Mr. BENTON. No, I believe that it was California and Oregon legislators.

Senator STEVENS. Oh, I see.

Mr. BENTON. The species they were talking about was whiting I believe.

I'll go back to my office and dig up my notes and get their names to Earl for you.

Senator STEVENS. That's very good.

I know that you all have some very serious problems in your areas because of just the onslaught of this processing capability. What was it we figured out? 70 vessels have the capability of processing all of the species from the Mexican border to the Arctic Ocean—and totally excluding all shorebased facilities—were they to decide to do it. That is a staggering prospect.

Well, I thank you very much. I'm sorry you had to come the long way, Jerome. I hope you enjoy the day in Anchorage. I look forward to seeing you later on today.

Thank you very much.

Let's take a five-minute break here for everybody.

[Brief recess.]

Senator STEVENS. I'm sorry about the fact that we have to come back this afternoon, because I'm sure you all would like to have finished. But we have obviously all of the mayors in town who are involved in the Prince William Sound spill, and I'm going to go meet with them, and then we'll come back at 1:00.

Next, let's see, we have—I don't see Jeff here.

Mr. COMSTOCK. Jeff's not going to make it, sir.

Senator STEVENS. Jeff Stephan is not going to make it.

Bill Arterburn of the Central Bering Sea Fishermen's Association of St Paul. Harold Sparck of the Bethel area, and——

Mr. COMSTOCK. It looks like we don't have anybody else.

Senator STEVENS. Is Joe here, or coming in?

Mr. SPARCK. Mr. Chairman, Joe's group is a member of the group that I'm representing, so——

Senator STEVENS. All right, good.

Mr. SPARCK. I don't believe they'll be here today.

Senator STEVENS. Thank you.

Gentlemen, go ahead, whoever wants to be first. Bill?

STATEMENT OF WILLIAM ARTERBURN, CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

Mr. ARTERBURN. Good morning, Senator.

Senator STEVENS. Do you want to pull that up to you so people can hear you? We've got some noise there.

Mr. ARTERBURN. My name is William Arterburn, and I'm speaking today on behalf of the Central Bering Sea Fishermen's Association representing the fishermen and communities of St. Paul and St. George Island. Mr. Perfenia Pletnikoff, president of the associa-

tion, is out fishing, as are several of the other Pribilof fishermen, so I've been asked to speak on behalf of their interests.

Since its enactment in 1976, the Magnuson Act, along with the Marine Mammal Protection Act and amendments to Fur Seal Act, has significantly changed the nature and profile of the Bering Sea ecosystem, in which the Pribilof Islands occupy a central position.

For the Aleuts who live on the islands, the changes during this period have been profound. They have progressed from a position of government wardship in a secure, if spare and antiquated, economy based on fur seals to an economy based on expectations. The expectation is that government-sponsored economic development and infrastructure improvement will foster a fisheries-based economy capable of sustaining the island people, and making full use of the strategic location of the islands. That expectation has been the driving force and intent of all Pribilof entities since the National Marine Fisheries Service abruptly departed in 1984.

Looking back to that period, the creation of a new economy has proved a lot more difficult than anyone ever suspected. Construction difficulties, regulatory and environmental delays, the state of unpreparedness of Pribilof Aleuts themselves, and tremendous cost have all contributed. Actions taken under the Marine Mammal Protection Act and the Fur Seal Act seem to firmly preclude any return to commercial fur sealing as an economic option. In terms of other resources available, Aleuts of the Pribilofs have nowhere else to turn for an economy other than the fishery resources of the Bering Sea.

I would like to just point out as a matter of correction, that there are some areas north of Unalaska that are very interested in the fishery resources, in spite of previous testimony.

The number of factory trawlers harvesting groundfish in the Bering Sea has multiplied explosively in the 12 fishing years since the Magnuson Act. Harvesting capacity is surging ahead of resource volume, and is now impacting both the traditional fisheries and Alaskan coastal communities, with no steps taken by the North Pacific Council to limit the growth of this sector of the fishery.

Several days ago, at its June session, the North Pacific Council took yet another step to effectively close off any significant future entry by Aleuts into the sablefish fishery. Similar actions are being discussed for halibut and groundfish resources. We do not believe that it was the intent of the late Senator Magnuson, or of the U.S. Senate in adopting the Magnuson Act, that it preside over and suppress the economic life and potential of Alaskan coastal communities. Yet, that seems to be the effect, because one sector, without effective regulation or limitation, has overcapitalized to the point where long term availability of the resources must begin to be questioned.

Time has run out for the Pribilof Islands if fisheries related industries cannot be financed and brought to these communities. Aleuts are probably more at risk, both as a culture and a society, and as debtors, than any community in Alaska dependent on fisheries. Certainly no western Alaska community faces the extent of financial ruin that the Pribilof communities face.

In April of 1989 Perfenia Pletnikoff, President of Central Bering Sea Fishermen's Association, presented a petition to the North Pacific Council asking the Council to allocate not less than five percent of the present 2.0 million metric ton groundfish TAC in the Bering Sea to Pribilof entities. The basis for the request was stated in a petition, a copy of which is attached for incorporation into the hearing record.

While the North Pacific Council was asked to start an administrative procedure so as to put an allocation into effect in 1990, the Council has not done so.

There is pending before the House Merchant Marine and Fisheries Committee a bill introduced by Congressman Young that would amend the Fur Seal Act amendments of 1983 to allocate ten percent of the Bering Sea bottomfish TAC to a new Pribilof Aleut Fisheries Development Association, if limited access regimes are implemented by the Department of Commerce.

Reactions to factory trawler exploitation of the Gulf of Alaska this year have generated proposals to the Council to implement some form of onshore preference in resource access for coastal communities in Alaska. We know that your committee also may be debating such a provision as a possible amendment to the Magnuson Act. We are in support of the fairness of such a move by either the North Pacific Council or Congress to level the playing field for shorebased economic activity.

In so doing, however, we must register our concern for the timing and applicability of such a measure to the situation on the Pribilofs as a substitute for the allocation that we feel we need. Every justified argument you can make for shore-side preference applies to the Pribilofs, but we are more-so at risk by not having established processing at the moment on either island. Potential investors on the islands have additional need to evaluate availability of resources in an overcapitalized fishery, and/or a fishery that limits entry to new participants.

In the final analysis, we have no choice but to stress the total uniqueness of the Pribilof situation, and to respectfully remind Congress of the intents and purposes of the Fur Seal Act amendments of 1983. We ask your committee to enact an amendment to the Fur Seal Act which would allocate to us a fair percentage of the groundfish component in the Bering Sea so that Pribilof economies may access the raw material upon which they must base their economies.

The Federal Government has invested a phenomenal amount of money in the Pribilof Islands, solely on the premise of developing a fisheries-based economy, and in furtherance of the intent of the Magnuson Act. You, Senator Stevens, in particular, have been a tireless champion in these efforts, large and small, of Pribilof Aleuts, and in so doing have earned their eternal gratitude. But the Congress has witness developments in the fishery that might well destroy all assumptions previously made. Those developments undercut a very basic assumption of the Fur Seal Act amendments of 1983; that is, that a fishery-based economy would spring to life on the Pribilof Islands once boat harbors were completed. We simply do not have the resources left to make that happen, and our debts are coming due. The allocation that we have requested will

guarantee a resource base for companies who would consider investment on the islands.

On behalf of the Central Bering Sea Fishermen's Association, Pribilof fishermen and communities, I thank you for the opportunity to present this before your committee.

Senator STEVENS. Thank you very much. Let me ask Harold to speak first, and then we'll have some comments.

Harold.

STATEMENT OF HAROLD SPARCK, DIRECTOR, YUKON-KUSKOKWIM FISHERIES TASK FORCE

Mr. SPARCK. Thank you, Mr. Chairman.

Mr. Chairman, I'm representing the Yukon-Kuskokwim Fisheries Task Force. It represents villages in the Yukon-Kuskokwim delta, and in the entire breadth of the Yukon River, so it's a population of about 5,000 subsistence and commercial users of the Bering Sea resources. Nunam Kitlutsisti is a member of that organization, and Joseph Chimalgalrea had a fishing period last night that did not get over until 10 o'clock.

Mr. Chairman, my comments are twofold, dealing with conservation—a subject which you've brought up—the original aegis for the Magnuson Act's passage; and one administrative issue.

When the foreign fisheries were dominating the fisheries in the EEZ off of Alaska, there were two premises that the Federal managers operated under. The first premise was that conservation would be honored, and that as a cost of doing business, these foreign fisheries would have to dedicate, at their own expense, the funds required to supply biological data to the U.S. Government. That was a mandate.

In the event that these fisheries harmed directed fisheries, which were—after litigation by people in my area were finally called prohibited species—these were fully utilized fisheries of herring, halibut, crab, and salmon—the foreign fisheries would be penalized by either time area closures, specifically for the area, or for the entire year.

These same economic forces found in foreign countries have now put in place American surrogates to do their fishing for them in the ocean. And for some reason, the conservation ethic that applied to foreign fisheries were not applied to the American boats. That conservation ethic has been lost. Conservation was not transferred from foreign to domestic fleets. I think that's a point that you have brought up twice this morning. There is no justification for that.

The second issue, Mr. Chairman, is the fact that the recent Driftnet Act agreements with the oriental fishing states are a step backwards. You pioneered the idea under the original Magnuson Act, in Title II and Title XIII, that the U.S. did have an interest beyond 200 nautical miles.

Navigational interests of the United States, however, have had two consecutive presidents determine that the U.S. interests only exist to the EEZ boundary, and the executive has refused to follow the authorities given to it by the Congress, and signed by President Ford, to go beyond 200 nautical miles to exert our influence on the high seas for anadromous stocks.

We believe that the most recent driftnet negotiations are a step backward, not a step forward, in fulfilling the Magnuson Act of 1976.

Mr. Chairman, I have five comments, then.

For conservation, the delegation of authority to the Fisheries Management Councils to require a level of observer coverage that gives Federal managers statistically reliable information on all aspects of performance of the users, including by-catch and percent of utilization of the public resources of the U.S. EEZ as a cost borne by the users requiring that coverage.

For conservation, a determination and finding by Congress that groundfisheries in the U.S. EEZ must not displace historic directed fisheries with by-catches that create conservation concerns and limit directed fisheries of these fully utilized species that are prohibited to be retained, with this declaration to be included as a new National Standard.

For conservation, Senator, a finding, a declaration, and a restatement of the anadromous species authority of the U.S. to manage under Title II and to enforce under Title XIII beyond the EEZ, as embodied by the MCFMA; to direct the Secretaries of State, Commerce, Treasury, and Transportation to carry out these provisions, and to report to Congress no later than May 30, 1990 on measures they have undertaken to carry out the will of Congress, including new international compacts to conserve anadromous stocks of natal states on the high seas from illegal high seas gillnet fishing, actions undertaken to prevent the illegal marketing of these anadromous stocks; to move unilaterally to establish the concept of rebuttable presumption and right to board and seize vessels fishing in locations and with gear known to take U.S. anadromous stocks; and the banning of high seas driftnets by no later than December of 1991.

For conservation, senator, to give discretion to the appropriate Fisheries Management Council to retain a portion of its annual TAC for distribution as shore-based preference, and to further reserve a significant portion of that allocation as a community development quota for emergent shorebased fisheries which have demonstrated a historic interest in the harvesting, but have yet to demonstrate a significant entry into the shorebased processing sector.

For administration, to amend to 90 days the current provision requiring the filing of lawsuits in the Federal District Court for the District of Columbia within 30 days of the publication in the Federal Register of an MCFMA regulation.

If I can, Senator, I'd like to comment in more detail on my fourth point, and that is the community development quotas. We have studied the limited entry access systems of the governments of Australia and New Zealand, Japan, and Norway. And in looking at the—overviewing the four, we have settled on the community development quotas as the best opportunity for small communities in Alaska, including the—the Pribilof Islands would be included in this—that would give the opportunity of the Council to set aside a portion of that fishery for these individuals.

In my more detailed comments I point out to you, senator, that the people living in western Alaska have suffered from a history of interception fisheries on the high seas. These began with the Japa-

nese fishing off of Adak in 1903 for salmon, the Japanese longline fisheries off the North Aleutian Shelf, right at the time when the salmon were migrating through, and then the trawl fisheries of both Japan and the U.S. that have gone on.

And we can see, even under the most careful management system, that there will be continued interception of fully utilized stocks. And particularly in western Alaska, we're talking about halibut, salmon, and herring. And at least for many of our people, we look at that as a equity issue. We've had to tolerate the interceptions. Our economies have been disrupted. There is no flow of capital into our communities because of the irregularity of the runs due to the interceptions, both foreign and domestic.

And for this reason, the discretion by the Council of making a community development quota would give each community a vested interest in not only the conservation of that resource, but would give the communities the opportunity of either realizing or marketing that resource in order to sustain their domestic economies.

That is the only way we foresee in the future that these communities continue to have a stake, and have an opportunity to exist.

I know time is short, Mr. Chairman, and I close my comments at this time.

[The statement follows:]

STATEMENT OF HAROLD SPARCK, DIRECTOR, YUKON-KUSKOKWIM FISHERIES TASK FORCE

Mr. Chairman,

My name is Herold Sperck. I am director of the Yukon-Kuskokwim Fisheries Task Force, which represents nearly 5,000 commercial and subsistence users of the resources of the U.S. EEZ in Bush Alaska. Our group first formed in 1977 in response to opportunities made available to US territorial sea interests by your outstanding achievement in having the Magnusson Fisheries Conservation and Management Act approved by President Ford.

You may remember that interests I represent first approached you in 1972 with our concerns for conservation of U.S. ocean resources in the Bering Sea and North Pacific Ocean, and supported your MFCMA efforts before Congress. These corrections that we are presenting today were first presented to Congress as MCFMA amendments in varying forms in 1981 and 1985.

Our foremost concern is waste of the resource. Just as in 1976, our people must still wait for the fisheries and marine mammal resources to come to them. They remain, due to economics, fishermen and marine mammal takers of the territorial sea. They are just as dependent now as they were in 1976 on a healthy ocean eco-system for their sustenance and cash.

As a group, they fear that conservation, the Congress's main effort in passing the MCFMA, has been replaced in the Executive's subsequent management by misguided "Americanization" of the groundfisheries, and foreign policy considerations.

In its current MCFMA proposals, the YKFTF focuses its conservation concerns on the lack of statistically reliable biological information in current management, a lack of limits on the by-catch of prohibited species, their discard as dead animals, the underutilization of groundfish taken by US trawlers, and the total kill of North American salmon on the high seas beyond the U.S. EEZ by interception and drop-outs.

A. For conservation, delegation of authority to Fisheries Management Councils to require a level of observer coverage that gives Federal managers statistically reliable information on all aspects of performance of the users, including by catch and percent of

utilization of the public resources of the U.S. EEZ as a cost borne by the users requiring that coverage.

As a group singularly dependent on a healthy marine eco-system, we are most concerned with the disregard for conservation of these precious resources. The new users of U.S. EEZ resources off of Alaska are unfamiliar with poor productivity. They entered this see during a warming and highly productive trend. They have made business decisions based on their limited experience with this period of high productivity. As a group, they have demanded, and have been successful in having Federal managers subscribe to their short-term and short-sighted view of management. Waste has become endemic in these new fisheries.

Before foreign fishing and marketing interests found willing U.S. surrogates for utilizing the TAC of the Bering Sea and North Pacific Ocean, the Federal management practice was very clear. As a cost of doing business, the foreign fisheries at their own expense, were required to provide sufficient and scientifically reliable data on the fisheries and their harvestingf practices to insure the safety of the biological resource. In addition, these same fisheries, as a cost of doing business, were prohibited from displacing existing U.S. fisheries on fully-utilized stocks. Federal managers required that these foreign groundfisheries maintain low by catch rates on prohibited species. In the event that the 100% mandatory observer coverage revealed inadequate conservation of these prohibited stocks in the foreign fishery, the Federal Manager either imposed in-season time and or area closures, or closed the entire foreign fishery through emergency action.

For example, in 1982-83, the NPFMC imposed a five year sliding scale of by-catch for prohibited species on the foreign fleets, supported by 100% observer coverage, and fishing closures. Within one year, those fleets met their fifth year objective. When similar limits have been proposed for the US trawl interests, they raise financial objections similar to the foreign fleets, yet oppose observers or time-area closures to limit bty-catch of prohibited species. The U.S. trawl fleet wants an uneven playing field.

Now that U.S. flags are showing on the vessels, this federal policy has been mislaid. This policy needs to be re-instituted by statute immediately to bring conservation back to these U.S. groundfisheries.

We believe the best opportunity for re-imposing these conservation controls is to allow appropriate Fisheries Management Councils to require the level of observer coverage, as a cost of doing business, necessary to develop a scientifically valid, and statistically reliable data base to be used by Federal managers to govern the fishery. We believe that these observers should be multi-purpose, and record not only tonnages of groundfish taken, but that portion of each species utilized, for the expressed purpose of developing full utilization criteria through selective fishing techniques. We understand that other groups are suggesting that Congress make this provision mandatory through statutory amendments. If this delegation of discretionary authority from Congress to the FMC's is unworkable, we would then support statutory language mandating this conservation control,.

B. For conservation, a determination, and finding by Congress that groundfisheries in the US EEZ must not displace historic directed fisheries with by-catches that create conservation concerns, and limit directed fisheries of these fully utilized species that are prohibited to be retained, with this declaration to be included as a new National Standard.

As a follow-up to A. above, we believe that statutory language is required to conserve the resource of fully-utilized fisheries and their existing industries. In Federal management practice, the concept of conservation of existing fisheries has been lost. The unlimited by catch of these fully utilized species, and their discard at 100% mortality, has impacted the historic fishery, causing both conservation concerns, and reducing their harvests.

We believe that Congress must make as a National Standard conservation of fully utilized stocks so as not to displace historic fisheries on these discrete stocks. These historic fisheries, off-shore using pots and longlines, and inshore using gillnets, all fish discrete strocks. These fisheries have low by catch rates for non-target species, and their by catch mortality has been documented to be low. No evidence exists that equates the mortality on by-catch species between the historic fisheries and the new mobile gear fisheries.

C. For conservation, a finding, declaration and re-statement of the andromous species authority of the United States to manage under Title 2 and enforce under Title 13 beyond the EEZ as embodied by the MCFMA, to direct the Secretaries of State, Commerce, Treasury, and Transportation to carry out these provisions, and to report to Congress no later then May 30, 1990 on measures they have undertaken to carry-out the will of Congress, including new international compacts to conserve anadromous stocks of Natal States on the high seas from illegal high seas gillnet fishing, actions undertaken to prevent the illegal marketing of these anadromous stocks, to move unilaterally to establish the concept of rebuttable presumption and right to board and seize vessels fishing in locations and with gear known to take U.S. anadromous stocks, and the banning of high seas driftnets by no later then December, 1991.

As a user group most dependent on anadromous stocks, we are very concerned with the disinterest of successive Executives to Title 2 and 13 of the MCFMA. You were instrumental in overcoming the navigational interest of the Departments of Defense and State to limit extra-territorial sea extensions of authority. The excessive conservation risk borne by natural resources of the FCZ (now EEZ) from the post-WWII navigational interest of the US finally won out when the Ford White House agreed with Congress, and refused demands for a FCMA veto. Quickly, with your support, the foreign high seas gillnet fisheries were rolled back. But retrenchment by these same U.S. merchant marine and naval interests occured. The Executive refused to folow Congress's will beyond the newly created 200nm Zone.

As we replaced directed high seas gill-net fisheries, the Federal Executive allowed these Oriental fishing nations to transfer gear effort on U.S. anadromous stocks. Our groups alerted State and Commerce that the displaced Mothership catcher boats of Japan had transferred to the growing squid fleet in 1980. We were concerned that the 2,000 plus miles of ocean gillnets targetting salmon were now transferring to a 22,000 mile plus squid fleet that was beyond U.S. or flag state control.

First the Reagan Administration, and now the Bush Administration, has chosen for foreign policy considerations to avoid this issue. These

Administrations have chosen to protect the navigational concerns of the U.S. at the risk of our anadromous and other ocean ecological and environmental interests. These Administrations have chosen to draw a 200nm zone of ocean influence to limit further ocean jurisdictional claims. These Administrations have failed to take into consideration the wastage of all sealife by these "floating curtains of death" to support questionable Federal navigational goals.

As the author of the Driftnet Act, you responded once again to ocean conservation. We believe that the MCFMA Re-authorization presents a third opportunity to conserve ocean resource of U.S. and worldwide value from the driftnet squid fisheries.

For these reasons, we request that MFCMA amendments be made to further compel the Executive to follow Congress's resolve in Title Two and Thirteen.

First, we suggest that like the Driftnet Act, the Congress place a timelimit on the Federal Executive, and that date be May 30, 1990, prior to the start of next year's high seas salmon derby in the North Pacific.

Under this guideline, we would recommend statutory language impelling the Executive to seek out a replacement for the moribund INPFC, to bring the USSR, a major salmon state of origin left out of the INPFC, as an equal partner into the new forum, and to make the elimination of illegal high seas driftnet fishing for salmon its centerpiece.

We recommend the development of a GATT type arrangement to require Certificates of Origin as a customs pre-requisite for imported salmon to deny salmon taken illegally on the high seas from entering foreign markets.

Clearly ennunciate through statute the pioneer development of new international law by declaring rebuttable presumption the new National Standard under Title 13, describing through use of new NOAA chartlets the spatial and temporal ocean locations where foreign fishing activity with gillnet would be presumed to be taking anadromous stocks of U.S. origin, and directing the Secretary of Transportation and State to undertake unilateral ocean enforcement against these vessels without Flag state consent for boarding, and in the event that evidence exists of

illegal salmon fishing, for seizure of the vessel, and prosecution in U.S. Federal Court.

Last, we recommend that the Congress seek a ban on all high seas gillnet fisheries, using the USSR publicly announced deadline of December 31, 1991, to be enforced by amendment of the Pelly Amendment to the Fishermen's Protective Act to allow the President to embargo all trade products from a country certified by the Secretrary of Commerce for being in non-compliance with this statute.

D. For conservation, to give discretion to the appropriate Fisheries Management Council to retain a portion of its annual TAC for distribution as shore-based preference, and to further reserve a significant portion of that allocation as a "Community Development Quota" for emergent shore-based fisheries which have demonstrated a historic interest in the harvesting, but have yet to demonstrate significant entry into the shore-based processing sector.

The groups and villages that are members of the YKFTF depend upon the ocean resources of the Bering Sea. Being dependent on migrating ocean resources, they as a class of Bush Alaskans have had to bear the conservation burden of their marine resource by foreign salmon fishing begining in the Eastern Bering Sea in 1903, foreign longline fishing that began in the mid 1930's in routes taken by Western Alaskan migrating salmon on the north side of the Alaska Peninsula, and significant foreign and domestic trawl fisheries that began in the mid-1950's.

Their limited cash economy is based on salmon and herring. Their subsistence economy depends on these two fisheries, and marine mammals. Both economies have suffered from ocean harvest excesses. A lack of investment capital exists, partly due to the subsistence maintenance economy that the ocean interceptions that govern the local society, but mostly due to inconsistent strenght of migrating runs of salmon and herring that make up the commercial fisheries. that are subject to unlimited ocean interception.

When these small in-shore fisheries have attempted to expand to ocean ventures, they have met with significant opposition. A small 100,000

pound halibut fishery has been our only success. Our second effort to pioneer a small boat cod longline fishery off the south side of Nunivak Island failed. We had good CPUE's from the 1977-78 year class from 1980 through 1985. We expected to harvest the strong 1982-83 cod year class. Our villages invested their limited capital into shore receiving stations. Yet their efforts to have the North Pacific Fisheries Management Council protect that small boat fishery from larger boats was unsuccessful.. That local cod resource, the first successful reproduction since the 1932 year class, was quickly eliminated by joint venture trawl fisheries that took over 9,000 tons of cod as by-catch in the vicinity of Nunivak Island in 1986 to a 133,000 ton yellow-fin sole fishery. Cod have disappeared from Nunivak Island since that year, even thought he 1982-83 year class was strong, and should be evident in Nunuivak Island at this time.

Much effort has gone in to promote the idea of shore-side preference. We support this idea, but only if developing fisheries that have little capital, and utilize small boats are made eigible under this criteria. We studied the Australian, New Zealand, Norwegian, and Japanese systems of restricted access to protect shore based fishing communities, and began to support the Community Development Quota concept in 1986 as the only opportunity for our comunities to share in the conservation and economic future of the U.S. EEZ in Alaska. Our village people will have to put up with continued interception of their subsistence/commercial marine resources. They consider the CDQ's a historic and future equity issue.

We fully believe that any statutory amendment dealing with shoreside preference must contain a provision requiring a significant set-aside to developing fisheries in any allocation of the FMC's TAC to Community Development Quotas.

E. For administration, to amend to ninety (90) days the current provision requring the filing of lawsuits in the Federal District Court for the District of Columbia within thirty (30) days of the publication in the Federal Register of a MCFMA regulation.

The YKFTF has been forced to go to Federal District Court in the District of Columbia several times since the inception of the MCFMA to request the Courts to have the Federal Executive obey the will of Congress in its

management of U.S. ocean resources. In each of those instances, we were forced to operate under a difficult time schedule from Bush Alaska. Federal Register notices do not get to Bush Alaska until two weeks after they are published, if at all. The thirty day period prevents interested parties from undertaking the proper preparation and necessary consultation with other interested parties prior to following in the District of Colum,bia District Court. On several other occasions, we were thwarted from intervening because of this time delay, and uncertainty of the final Federal rule. Extending this time limit to ninety days would relieve this burden on the public.

Senator STEVENS. Where are these studies you mentioned of the other nations' restricted access concepts? Have you got them?

Mr. SPARCK. Yes, I do, senator. And I believe the State of Alaska has also contracted with an individual to develop a similar study. And that is available. We can have that forwarded to your staff.

Senator STEVENS. I think we'd like to see those studies, if they're available that we can review them.

As far as the Pribilofs are concerned, I'm familiar with Congressman Young's proposal, and it is an amendment to the Fur Seal Act. And it has attracted some attention because of the commitment that was made by Congress to the Pribilofs at the time of the Fur Seal Convention was not extended.

But let me ask each one of you, implicit in what you're saying is that you believe that the areas should get an allocation of the quota without regard to whether they harvest it. Is that right? Do you want the Canadian system of an allocation which could be, in effect, sold to another harvester? Is that correct?

Mr. ARTERBURN. I think, speaking for the Pribilofs only, that the intent is that there would be both harvest and processing activities. The problem is, how do you enter a fishery in which there is a significant financial investment to start with, but over and above that, the fishery itself is overpopulated and overcapitalized to the point where economic entry into the fishery become unfeasible?

And you know, the Pribilof communities are looking at a future time, and you know, this is a future that's been promised to them. They're not ready yet. But what they see happening on the fishery in the Bering Sea is a total overcapitalization to the point where vested interests will have fixed shares of the resource, and they will have no access whatever to the resource.

So the intent here is to use an allocation to leverage the community into the fisheries.

Senator STEVENS. I understand. But you're not suggesting that they have an allocation that could be sold without regard to development of any facilities onshore?

Mr. ARTERBURN. Well, that has been suggested. Or at least when it was initially proposed, it was proposed in that manner, senator, because the harbors on St. Paul and St. George are incomplete, even at this point. At the time it was considered that the North Pacific Council might make some moves towards limiting access. If they were going to limit access, then the Pribilof communities wanted to have a stake, and have a share in it, and it was their intention to use that share to further the development of their own infrastructure.

Mr. SPARCK. Mr. Chairman, you may be familiar that our communities did make investments in shorebased processing. We had an opportunity for a cod fishery. Factory trawlers moved in on top of us—I'm sorry, joint venture trawlers moved in on top of us, selling to foreign factory ships, and our localized cod population was eliminated. Our CPEs have dropped to zero since they took 9,000 tons of cod off the south side of Nunivak Island. So we made the investment. We do have a 100,000 pound halibut fishery.

So we have made the—we are fishing, and we have made the investment in the shoreside processing. I mean, they are minor, com-

pared to more sophisticated communities, Dutch Harbor, King Cove, and Kodiak.

We see both, as the Pribilofs do. We see the opportunity to process, and we see the opportunity to harvest, but we have to have that set-aside in order to go to the banks. No banks exist out in western Alaska, and our only opportunity is by having the set-aside. Then we can go to the banks and market it.

And as I mentioned earlier, senator, because of the disruption in our runs of our wild stocks, both salmon, herring and halibut, we have not been able to attract the capital, because of the offshore interception of these stocks.

Senator STEVENS. Well, I'm most interested in trying to pursue some concept that would fulfill the commitments that we made with regard to the preservation of the species and the capability to have a continued availability of those species in future years.

It does seem to me, however, that unless there is a concept that the allocations to these communities must be used by the communities, all we would do would be to establish a ticket, in effect, that could be sold to the same floating processors to catch and to process the fish. And that would have no shoreside advantage other than a percentage of the profit being shared with the shoreside communities.

Now, is that what you're suggesting, Harold?

Mr. SPARCK. Senator, in the New Zealand system, where they do have the community development quotas, it was a limited entry system such as the State of Alaska has, which means a free market, open to entry system—open to entry in terms of the migration of permits to capital, wherever capital was available. And what the government of New Zealand found was that those permits that were situated in the rural or bush areas of New Zealand migrated to the urban centers. They were still fished in the rural area, but they migrated, and the benefits went to the urban areas.

The government of New Zealand repurchased these share quotas and distributed them out to the bush communities and locked them in place so they couldn't migrate. And the communities had the opportunity, then, of either fishing them or leasing them. And the revenues went into that community so that there was a self-sufficiency developed within the bush or rural community for that part.

Our people want to fish, senator. They are coastal people. They have no economy. There is no commercial salmon fishing out there. And that is their goal. In order to get startup capital, I would suggest that you are correct, that there would have to be an initial exchange, or an investment, by a floater to come in, and there would have to be a shared harvesting capacity. But our goal has always been to harvest ourselves.

Senator STEVENS. Very well. We'd be pleased to have your further suggestions. The suggestions you've made concerning the Driftnet Act—I've been spending a considerable amount of time with some very eminent international lawyers, and they believe that we're on very thin ice as far as some of the enforcement mechanisms we've already suggested to our claim of ownership and the right to protect anadromous fish in the high seas.

So I think from a legislative point of view, we may be running out of room, and we probably are going to have to look for some

form of international agreement, which we've discussed before. It would seem we'd have to have a footing underneath any further legislation in that area. And probably it will require some revision of the INPFC, or a new North Pacific Convention that deals with more countries and more subjects.

Mr. SPARCK. Senator, in 1976, and again in 1987, you helped establish new international law. You made it customary international law, with the Magnuson Act, and then with the Driftnet Act, by moving unilaterally to extend authorities of a coastal state beyond 200 nautical miles. Again, my limited understanding of international law is, you claim it, you practice it, and then you dare the other guy to not agree to it. And certainly what happened in the Magnuson Act is that the U.S. set the unilateral standard, and the rest of the nations of the world then adopted it.

I would suggest again that the Magnuson Act in 1976 said that the economic harm and the environmental harm was so great that coastal states had to act unilaterally. And I would say that the instances are so great now, that that again would be the condition.

Senator STEVENS. Well, I don't disagree with that. And I've got to go—there's no time to really go into it, but it does seem to me that when we not only legislate parameters for our own conduct, but we start saying that all nations must destroy driftnets, we can't enforce that. We're going to have to find some way to get an international agreement to deal with driftnets, and I think probably an international agreement to deal with the Doughnut. The interesting thing is that no one has mentioned the Doughnut yet, and that really probably is just as much a difficulty for us in the future as the problem of driftnets per se.

I'm sorry, we'll have to leave. We'll come back at 1:00 o'clock.

Thank you all very much, and we look forward to—we do have one last panel of industry representatives, and we'll be glad to listen to anyone else who has a statement to make at that time.

Thank you.

[Recess]

Senator STEVENS. Our next panel is the industry representatives panel, Chris Blackburn, Reed Wasson, Bob Morgan, and Tiny Shasteen.

Chris, good afternoon.

STATEMENT OF CHRIS BLACKBURN, DIRECTOR, ALASKA GROUNDFISH DATA BANK

Ms. BLACKBURN. Thank you, Senator, and good afternoon to you!

For the record, my name is Chris Blackburn, and I am director of the Alaska Groundfish Data Bank, and I am speaking on behalf of the groundfish industry in Kodiak. And I want to thank you, Senator Stevens, for holding this hearing here so that we could have a chance to speak.

I have submitted my written comments, and I'm not going to go over them. I want to address some of the things that were mentioned in previous testimony.

Senator STEVENS. Good.

Ms. BLACKBURN. One of the questions that concerns Kodiak is that the Gulf of Alaska is not like the Bering Sea. It's a lot of

gullys, gusts, shallow areas. It's almost many little micro-areas. So localized depletion is a very serious concern with us. In the Bering Sea, crab is managed for all of Bristol Bay. In Kodiak, I believe there's seven crab districts because the areas are that localized. Any large-scale effort, whether it's crabbing, trawling, or longlining, in one small area, runs a real risk of localized depletion of the stocks.

So to us, what we term shoreside preference is a conservation issue. How do you slow down the effort, control the size of gear and the size of vessels that are used, and spread the effort out over the whole stock? Otherwise we are going to deplete our stocks, small stock, by small stock, by small stock, all the way around the Gulf.

There has been statements made in some of the written testimony that, why should we have any kind of protection for shoreside communities, because they have salmon, and they have crab? Well, for one, we don't have king crab any more, and we don't have shrimp any more. Those went into the bellies of the cod and the pollock when that population expanded.

I went and added up our winter production in Kodiak. Remember, salmon, halibut, and black cod are summer productions. I added up our winter production since 1965, which was the peak year of the first round of king crab. We have averaged between 50,000 and 70,000 metric tons every winter since 1965, except for the last four years before 1987, when we had no king crab at all. And we had a real bleak time that year. We used groundfish to make up the loss of the crab and the loss of the shrimp. Kodiak has not built new plant, it hasn't built new roads; it's simply maintained, based on groundfish.

And then the loss of groundfish resources to a highly mobile fleet that can move in, strip you bare, and leave you alone, that removes what replaced our crab and our shrimp. And when the crab and the shrimp come back, I don't think we're going to see a bunch of pollock and whole bunch of cod. That pollock is down, and cod seems to be down, and we're seeing a lot of little king crab in the Kodiak area.

Shorebased areas are a real natural control. There isn't enough land that anybody can come in and build, infrastructure, water, or electricity. Even the supplying of people is difficult. So when you have a shorebased—and to me, shorebased is our coastal communities, because our coastal communities depend on the product and the work that's coming through—you have a natural control over just how much production can happen.

With the at-sea processors, there isn't that kind of natural control. You can just keep building them, and building them, and building them. And I suspect when they take all the product in the Gulf and the Bering Sea, they'll head for the donut hole just like the foreign fleets, which is why we also have concerns about the donut hole.

As far as the Magnuson Act, we've thought a lot about this, and we don't have good answers. But there's some things I notice, that in the Magnuson Act it refers to harvesting vessels. There's no separate category for catcher/processors. And in the early days of limited entry, we had factory trawlers say, "Well, it wouldn't apply to

us, because we're processors." And then if things apply to processors, it doesn't apply to them, because they're harvesters.

When you start to make regulations, as the Magnuson Act allows, to conserve the resource, suddenly you've got processors who say, "We're processors, so those regulations do not apply to us." I think the Magnuson Act needs to address the back-seat processor, catcher/processor, as a separate entity, so that he can no longer say, "The Magnuson Act says you can't do this to processors, and we're a processor," or, "You can't do this to catcher boats, and we're a catcher boat."

Limited entry has been brought up here. What about limited entry? We were talking at lunch, we have a fleet out there, some of which I'm sure are very good operators. But as the tape you showed earlier demonstrated, we also have some very bad operators, and the volume of product they can run through, especially in a fragile area like the Gulf, is very frightening.

So they overcapitalize, too many vessels, harm to the resource, and their reward is a million dollar permit either for limited entry or for a share quota? And we have great reservations about rewarding with permits or quotas, overcapitalization. And then you're stuck with it. You're never going to get back out of it. You'll not see this country investing the kind of money New Zealand did to make its system work. You'll remember, New Zealand put out over $50 million just implementing their quota system.

The Magnuson Act needs to give, I think, the Council a little stronger language on what it can do for conservation. Can you limit the size of vessels? Can you discriminate between large trawlers and small trawlers if an area is deemed too fragile to have a large effort in it? These are things the Council could use to guide them, I think, as they make allocation decisions.

The shorebased vessels, I want to say, have paid for their own observers. They've lobbied the State of Alaska for observer funding. And they have continued to take observers to demonstrate, one, that they care; secondly, with the help of observers, and looking at the rates, they have been able to improve by-catch rates most significantly. On a large fleet that can move from area to area, we don't see the same incentive for conservation.

Another problem, if the Gulf has a halibut catch, 2,000 metric tons for the entire groundfish industry, the trawling shuts down. Now, if our fleet is working clean, taking observers, demonstrating lower rates, and yet we have another fleet out there who is not demonstrating lower rates, they are shutting us down. Our efforts at conservation are not being rewarded if we don't have the control.

On other issues we wanted to mention briefly, I've read a number of the proposed amendments from other areas and other agencies, to the act. One is allowing the Secretary to assess fees on the industry. We certainly feel the industry needs to contribute, though no more than any other resource, as a group. However, if we pay fees, we want assurance that they will be returned to the industry geographical area and the fishery from which they were extracted. And we really get a little wary when things go into the general fund. We've seen SK—with SK and other monies, we're

talking about—and sometimes it's used to offset the mixed budget rather than develop the program for which it was intended.

Increasing the cap on civil penalties; we certainly support that, and we don't even think $100,000 cap is high enough.

And we also support language allowing the state to be reimbursed from the forfeiture fund for functions performed under the cooperative enforcement agreements.

And I'll end my testimony there.

[The statement follows:]

Alaska Groundfish Data Bank

WRITTEN TESTIMONY OF CHRIS BLACKBURN
FOR THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
FIELD HEARING ON MFCMA REAUTHORIZATION
HELD JULY 6, 1989, IN ANCHORAGE, ALASKA

My name is Chris Blackburn. I am director of the Alaska Groundfish Data Bank located in Kodiak, Alaska. I am speaking on behalf of the Kodiak-based trawl fleet.

I want to thank Sen. Stevens and the committee for the opportunity to testify before you today.

We strongly favor reauthorization of the Magnuson Fisheries Conservation and Management Act. To us it has proven its effectiveness and necessity. For example, since the implementation of the Act in 1976 we have seen

1. our black cod stocks rebuild;
2. and the devastated Pacific ocean perch stocks in the Gulf of Alaska begin to recover.
3. We have also seen the groundfish fishery change from 100% foreign participation to nearly 100% U.S. participation.

It is obvious that the Act has enabled the U.S. to conserve its fishery resources and develop a U.S. groundfish industry.

The elimination of foreign domination in our groundfish fisheries is basically due to two parts of the act:

1. The part giving the U.S. management control out to 200 miles which allowed u to manage the stocks to assure investors that, within the limits nature imposes, the stocks will be there in the future;
2. and to the processors preference amendment which gave the councils and the industry clear guidance on how to allocate the fish among foreign, joint venture and domestic and operations.

The tragic thing is that the advances made under the MFCMA now appear now to be threatened because of the way the U.S. industry has developed in the last three years. Rather than an orderly transition from foreign processing to shorebased processing, as envisioned by all those who helped develop the act, all those who fought for processor preference and many of those who fought to stop reflagging, we have a new disorder which both threatens the resource and threatens the future of shorebased plants and the coastal communities dependent on the fishery industry.

Chris Blackburn • Director • P.O. Box 2298 • Kodiak, Alaska 99615 • (907) 486-3033

The factory trawler fleet has increased to the point it alone can take all the available resource in Alaskan waters -- and it is still increasing.

There are no observers aboard these vessels and there are no double checks as to whether their catch reporting is accurate as much of the product is offloaded at sea to trampers.

Shorebased processors and their catcher boats live in daily fear that the product on which they are counting for the year's production will be taken virtually overnight by an influx of factory trawlers.

As you know, this happened this spring when a fleet of factory trawlers took, in two weeks, nearly 40,000 MT of pollock and closed down the Kodiak groundfish plants.

For Kodiak, groundfish is not "icing on the cake," but the only available replacement for the lost shrimp and king crab fishery. Kodiak's annual production for the winter fisheries has remained at between 60,000 and 80,000 MT since 1965, except for the four years between the end of shrimp and king crab and the beginning of groundfish.

In 1965 that production was based on king crab. As king crab declined, shrimp and tanner crab took up the slack. Now there is only groundfish and a small amount of tanner crab. For over 20 years Kodiak has been a year round fishing port with a resident labor force.

The point is, without groundfish, Kodiak returns to the days when it was only a summer fishing community dependent on a transient work force.

The North Pacific Fishery Management Council last month mandated observers on all vessels -- 100% on those 125 feet and larger, 30% on those under 125-feet. In all cases the processor pays the cost of the observer.

But the question of whether to protect shorebased communities, and if so, how, still remains unanswered and the councils have no direction from Congress and little guidance in the act.

Some clarification is needed.

We note that in the current act gives the Secretary discretionary authority in Section 303 (b) (2) to designate zones where fishing "shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear."

In (4) under 303 (b) types of vessels may be prohibited "to facilitate enforcement" and under (3) catch can be limited "for the conservation and management of the fishery."

We feel the U.S. at-sea operations need to be addressed directly in the Act as separate entities; otherwise, factory trawlers can, legitimately claim, that any regulations which apply to them should apply to all trawlers.

Secondly, we feel the Act should clarify Congress' intent in regard to the future of coastal communities. It is not enough to state that availability of other fisheries should be considered -- as pointed out above, groundfish provides the winter employment in Kodiak and the salmon fishery involves a different fleet and a different time of year than groundfish.

When the processor preference amendment was enacted the feeling was clear that the U.S. catcher boats fishing for joint ventures would be able to deliver to U.S. plants -- the creation of an entirely new fleet which both caught and processed and was capable of displacing all catcher vessels and disrupting the economies of coastal communities was not envisioned.

There are three proposed amendments to the MFCMA we also wish to address.

1. Fees -- we feel the industry should help pay its way (though no more than other groups); however, we want assurance that the fees paid are returned to the industry, the geographical area and the fishery from which they were extracted. Allowing the fees to go directly to the general fund we do not feel will accomplish this.

2. We definitely support increasing the cap on civil penalties, but $100,000 as suggested is still not enough.

3. We support language allowing the states to be reimbursed from the forfeiture fund for functions performed under cooperative enforcement agreements.

Chris Blackburn

Senator STEVENS. All right. Thank you.
Reed.

STATEMENT OF REED WASSON, PRESIDENT, EAGLE FISHERIES OF KODIAK, AK

Mr. WASSON. Thank you. Senator Stevens and staff, we certainly appreciate your coming to this hearing. We appreciate the opportunity to testify.

I am Reed Wasson, president and one of the owners of Eagle Fisheries. We operate a year-round bottomfish processing plant in Kodiak, Alaska. We've been operating in this mode since early 1987, and in the past year and a half we have specialized in trying to develop commercial-scale processing and marketing of Alaskan sole fillets in the U.S. fillet market. We have had very good reception from the market in terms of the product we're putting out, and the Alaskan sole generally.

The Magnuson Act was originally enacted, as you know very well, in 1976 in order to protect the U.S. coastal fishery resource and fishing communities from the impact of a large, highly mobile foreign factory trawl fleet. And as we have discussed at length today, we now are facing the same kind of a threat from the U.S. factory trawl fleet which has recently grown to tremendous proportions.

For a small Kodiak-based shore plant such as ours, this is a survival issue. If the factory trawl fleet is allowed to fish in the Alaskan Gulf without a separate quota for the shoreside and the at-sea processing, the likelihood is that they will take the quotas very early in the year, just as they did with the pollock this year, which will force a shutdown of the shoreside capacity for the rest of the year. Bottomfish for any plant is a low-margin high-volume type of business that requires something close to year-round operation in order to survive economically.

We have tried to operate our plant—and I think this is similar to other Kodiak plants—in a way that has maximized the value of the resource that we're working on. To produce fillets from Alaskan Gulf flatfish is a labor-intensive process. It requires a lot of trimming, careful packing, careful handling all the way through. But it also maximizes the value of that product here in the United States for meeting the U.S. market, which is a good market, and we have a good product for the market.

What we have observed—our fishing boats have been out fishing for Dover sole in the deep water grounds right alongside factory trawlers that are in that area looking for rockfish and black cod. The statistics—the available statistics that we have from the PacFIN (Pacific Coast Fisheries Information Network) data indicate that little or no Dover sole or rex sole, or other deep water sole is being retained or processed by these factory trawlers, because I think most of them lack the space and the manpower to do that kind of labor-intensive product. This means they are throwing away a lot of sole.

This bothers me a great deal, because you see a tremendous waste of a resource that could be used, and is starting to be used, to develop a long-term stable fishery for the shore communities, for

the shore plants that can put the time into that product to maximize its value, maximize the employment for American workers.

I think our basic problem in the Central Gulf and in Kodiak is that the quotas are just too small to support both the local plants and the factory trawl fleet. And what we see developing is a pattern where the factory trawl fleet will sweep by the Central Gulf—this year they took the pollock quota. Next year it may well be the Pacific cod quota, or flatfish quota. Without some regulation, they can simply wipe out the quotas in Kodiak, and move on out to the Bering Sea for the rest of the year, and of course, leave the Kodiak industry basically shut down.

Bottomfish is essential to Kodiak's economy at this point. Our plant, of course, does nothing but bottomfish. But even the other plants that survived for a long time on the so-called traditional species, they no longer have the shrimp; the crab is in very low abundance; salmon is a summer fishery. The only way that Kodiak is going to maintain a year-round seafood industry is with bottomfish. And the suggestions made by some factory trawler representatives that they should take all the bottomfish and leave the shore plants with the traditional species just doesn't work any more as a matter of economics for the shoreside community.

Having looked at the Magnuson Act and legislative history, I believe that the North Pacific Council has the authority under existing law to make a shoreside allocation. But this has been questioned by the factory trawler representatives, and I think it would be very helpful, and give the Council the right kind of direction, to clarify the act in the process of this reauthorization, to make it clear that the Council does have the power to allocate a shoreside quota to the extent necessary to protect the existing coastal communities.

And we certainly would support the concepts that have been voiced by the representatives from the Aleutians that there be a community development concept in there as well, so that the bottomfish—the economic promise in bottomfish can be realized for the Alaskan coastal communities.

That's all I want to say. Thank you, sir.

[The statement follows:]

Eagle Fisheries Inc.

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WRITTEN TESTIMONY OF REED WASSON
FOR THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
FIELD HEARING ON MFCMA REAUTHORIZATION
JULY 6, 1989 IN ANCHORAGE, ALASKA

Senator Stevens, members of the committee and staff: thank you for the opportunity to give this testimony.

I am Reed Wasson, president and part-owner of Eagle Fisheries of Kodiak, Alaska. My company owns and operates a seafood plant in Kodiak which has specialized in processing bottomfish, including Pacific cod, flatfish, pollock, sablefish, halibut and rockfish. With assistance from the Alaska Fisheries Development Foundation, we have pioneered large volume production and marketing of Alaskan flatfish fillets. For over two years we have processed bottomfish all year round, two shifts a day, providing full-time employment to approximately 150 plant workers, as well as several Kodiak trawlers and their crews. The growing activity of the factory trawl fleet in the Gulf of Alaska now threatens to put our plant out of business, and to squander one of the most important bottomfish resources in the world.

The Magnuson Act was originally enacted in 1976 in order to protect the U.S. coastal fishery resource and fishing communities from the impact of a large, highly mobile foreign factory trawl fleet. Congress recognized that without legislative protection, this fleet had the capacity to decimate the resource by overfishing, and thus destroy major segments of the U.S. coastal fishing industry. Unfortunately, the recent overcapitalization of the new American factory trawler fleet has now created the same kind of threat to our fishery and communities that the Magnuson Act sought to avoid. The closure of Central Gulf pollock quota in March, and the Central Gulf sablefish trawl bycatch quota in early June, are just the first signs of factory trawler fishing pressure so tremendous that it will eventually preempt any shoreside bottomfish effort.

The situation is aggrevated by indications that much of the factory trawl fishery is premised upon a very low percentage of utilization and high percentage of discards. The March pollock fishery in the Central Gulf was a prime example: in less than three weeks, a fleet of factory trawlers took about 37,000 MT of pollock, in large part keeping only the roe and discarding up to 98% of the total landed weight.

As a flatfish processor, we are especially concerned with the potential for similar factory trawler waste of the flatfish resource. Our boats have been fishing for most of this Spring in deep-water Dover

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sole grounds where there are also substantial quantities of rockfish and sablefish. A number of factory trawlers have been fishing in the same area, apparently targeting on rockfish with a sablefish bycatch. Tows for rockfish in this area are likely to come up with substantial quantities of Dover sole as well. The Pacific Coast Fisheries Information Network groundfish reports through mid-May 1989 showed over 2,200 tons of rockfish taken in the Central Gulf by the at-sea fleet, but zero reported landings of Dover sole, and less than 300 tons of "unspecified" flatfish. This indicates that any Dover sole taken by this fleet is largely being discarded.

We are very concerned about the potential for large-scale waste of the Alaskan Gulf sole resource just as we are starting to develop its commercial potential. Alaskan sole is beginning to provide solid long-term employment and livelihood for a number of plants, boats and workers in Kodiak and other Alaskan communities, but this will not continue if the factory trawlers are allowed to decimate and discard a large portion of the biomass as they search for species which can be processed with less intensive labor.

The shorebased plants and fishing boats in Kodiak are limited to the seafood resources in the Central Gulf of Alaska. While the annual bottomfish quotas for this area are more than ample to support the existing Kodiak industry, they are small in comparison to the Bering Sea, and can be taken within a few weeks by the U.S. factory trawl capacity now in place. The factory trawlers can then move on to the Bering Sea for the rest of the year, but Kodiak and other Alaskan Gulf fishing communities will be out of business.

With the decline of Alaskan shrimp and crab stocks, and the adverse impact of the Exxon oil spill on Alaskan salmon and herring harvests, bottomfish has become an increasingly important industry for Kodiak and other Alaskan coastal communities. In 1988, Kodiak plants processed approximately 82,000 MT of bottomfish, a quantity which surpassed the combined 1988 landings of all other fish and shellfish combined. Loss of this industry will be devastating to the community as well as those directly involved. We at Eagle Fisheries urge that in the process of reauthorization, appropriate steps be taken to clarify and ensure the Magnuson Act's original purpose of protecting the American coastal fishing industry and communities.

Senator STEVENS. I—well, I'll get back to you. I had a question I'd like to ask.

Bob.

STATEMENT OF ROBERT F. MORGAN, PRESIDENT, OCEANTRAWL, INC.

Mr. MORGAN. Thank you, Senator.

For the record, my name is Robert F. Morgan, and I'm president of Oceantrawl, Inc., an Alaskan corporation, with operation offices in Homer. We manage U.S. factor trawlers in the North Pacific.

At the present time we operate the Northern Eagle, and in late spring and early summer we will have on line the Northern Jaeger and Northern Hawk. Our operations office is in Homer, as I said. We hire all of the crews out of Homer. At present we employ about 150 people, and when the other two vessels are operational we will employ about 450 people.

We have entered into an agreement with the City of Homer which, with options, is for a term of 30 years. During this period we will have preference at a dock which is being built by the city. We have also leased for up to 30 years 80,000 square feet of land adjoining the dock. We intend to build support facilities including both cold and dry storage and office facilities to support our factory

trawlers. The total investment in the factory trawlers alone is in excess of $120 million.

I think it's important to emphasize that these trawlers were financed and built according to U.S. law as it was at the time, and as it is today.

I've personally been involved in the fishery in Alaska since 1941. I am now, and have always been concerned with the conservation of the seafood resource of the North Pacific. Someone has referred to that concern as "enlightened self interest," and I wouldn't argue with that characterization.

Over the years I have seen attempts by groups, mainly representatives of different gear type, to manipulate the laws so as to benefit their particular group and disadvantage their competitors, all in the name of conservation. Such an attempt is now being made by a group of shorebased processors. This is unfair, unnecessary, and a blatant attempt to achieve economic advantage for a special interest group.

Pollock resource, or any other resource, doesn't care whether it's processed at sea or at shore. The issue is conservation and management of the resource.

To facilitate Americanization of the fisheries, Congress instituted preferences for U.S. fishermen and processors over foreign interests. These preferences were codified in the original version of the Magnuson Act and in a 1978 amendment of the act. By 1989, virtually all of the foreign involvement in the Bering Sea and Gulf of Alaska groundfish fishery has been eliminated. Some U.S. Fishing vessels are delivering to floating processors, also known as motherships, others to shoreside plants. A new fleet of U.S. vessels capable of catching and processing groundfish at sea has contributed most significantly to the Americanization process. These catcher/processors are also known as factory trawlers.

As mentioned above, the Magnuson Act created a preference for U.S. fishermen and processors over foreign fleets in allocating fish in the U.S. 200 mile zone. The act also specifies seven national standards to which fishery management regulations must adhere. The U.S. factory trawler and mothership operations developed the groundfish resource in accord with these decade-old declarations of Federal policy.

Section 303(b)(6) of the Magnuson Act also sets our Congress' requirements before any limited access system can be imposed. The relevant factors to be considered are: present participation in the fishery, the capability of vessels in the fishery to engage in other fisheries, and the economics of the fishery involved.

Factory trawlers and floating processors displaced foreign fleets and have been the principal American participant in this fishery. Unlike shorebased plants, which rely on traditional high-value species such as salmon, crab, and halibut, catcher/processors participate only in the groundfish fishery. No other fisher can provide the volume necessary to maintain this fleet.

The beneficiaries of a shoreside processor preference amendment will be the major Japanese fishing companies which dominate our export market in Japan, and which formerly dominated the groundfish fishery off Alaska. These companies, which the U.S. factory trawler and at-sea processing fleet phased out of the harvest-

ing sector, invest in, or wholly own, onshore processing operations. It makes no sense to promote business opportunities for these interests at the expense of U.S. flag vessels.

I think a good example of that is in Dutch Harbor today, where TAO is at the moment investing some say $40 million in a new plant, which they want some preferential preference to protect an investment they're about to make, over investments that have already been made.

A total investment in excess of $800 million in U.S. catcher processing vessels has been made in the last few years. This has effectively Americanized this multi-billion dollar industry in keeping with the intent of the Magnuson Act. in the process, thousands of jobs and millions of dollars in income, which as recently as 1986 went to foreign fleets and citizens, is now going to benefit U.S. citizens. In 1986 approximately 92 percent of the fish caught in U.S. waters was processed in foreign factories. By 1989, it is estimated that 86 percent of this fish will be caught and processed by U.S. citizens.

The policies and goals of the Magnuson Act with respect to Americanization of the groundfish resource off Alaska have been realized. Further amendment to the act is unnecessary.

Just for the record, also senator, I'd like to—there seems to be some misconception that factory trawlers employ people other than Alaskans, and shore plants only employ Alaskans. Just for the record, our ship is now on its ninth voyage. We have averaged in excess of 60 percent Alaskans on every voyage. We have averaged in excess of eight percent native Alaskans on every voyage. All the hiring, as I stated before, is done in Homer, and we make an effort to hire Alaskans and do our business in Alaska. So the issue of Alaskan/non-Alaskan has been significantly blown out of what actually exists.

I have a petition here signed by 43 members of the present crew of 66 on the vessel asking that you not give preference to one segment of the industry over another.

Thank you.

[The statement follows:]

TESTIMONY GIVEN BY ROBT. F. MORGAN BEFORE
UNITED STATES COMMERCE COMMITTEE FIELD HEARING
AT ANCHORAGE JULY 6, 1989

Good morning. For the record my name is Robert F. Morgan and I am President of Oceantrawl Inc., an Alaskan corporation, managing U. S. factory trawlers in the North Pacific.

At the present time we operate the Northern Eagle and in late spring and early summer, 1990 we will also have on line the Northern Jaeger and Northern Hawk. Our operations office is in Homer, Alaska. We hire all of the crews out of the Homer office. At present we employ about 150 people and when the other two vessels are operational we will employ about 450 people. We have entered into an agreement with the City of Homer which, with options, is for a term of 30 years. During this period we will have preference at a dock which is being built by the City. We have also leased (for up to 30 years) 80,000 square feet of land adjoining the dock. We intend to build support facilities including both cold and dry storage and office facilities to support our factory trawlers. The total investment in the factory trawlers alone is in excess of 120 million dollars.

These trawlers were financed and built according to United States law as it was at the time we entered into the business and as it is today.

I have personally been involved in the fish business in Alaska since 1941. I am now and have always been concerned with the conservation of the seafood resources in the North Pacific. Someone has referred to that concern as "enlightened self interest" and I wouldn't argue with that description. Over the years I have seen attempts by groups, mainly representatives of different gear groups, to manipulate the laws so as to benefit their particular group and disadvantage their competitors, all in the name of conservation. Such an attempt is now being made by a group of shore based processors. This is unfair, unnecessary and a blatant attempt to achieve economic advantage for a special interest group.

In 1976, Congress passed the Magnuson Act. The Act asserted U. S. fisheries jurisdiction from 3 to 200 miles offshore and created a regulatory structure for managing stocks of fish within the newly defined 200-mile zone. Although foreign fishing and processing continued for certain species of fish in U. S. waters, the Magnuson Act encouraged the U. S. fishing industry to develop underutilized fisheries, specifically "bottomfish off Alaska".

To facilitate Americanization of fisheries, Congress instituted preferences for U. S. fishermen and processors over foreign interests. These preferences were codified in the original version of the Magnuson Act and in a 1978 amendment to the Act. By 1989, virtually all of the foreign involvement in the Bering Sea and Gulf of Alaska groundfish fishery has been eliminated. Some U. S. fishing vessels are delivering to floating processors (also known as motherships), others to shoreside plants. A new fleet of U. S. vessels capable of catching and processing groundfish at-sea has contributed most significantly to the Americanization process. These catcher/processors are also known as factory trawlers.

As mentioned above, the Magnuson Act created a preference for U. S. fishermen and processors over foreign fleets in allocating fish in the U. S. 200-mile zone. The Act also specifies seven national standards to which fishery management regulations must adhere. The U. S. factory trawler and mothership operations developed the groundfish resource in accord with these decade old declarations of federal policy.

Section 303 (b) (6) of the Magnuson Act also sets our Congress' requirements before any limited access system can be imposed. The relevant factors to be considered are: present participation in the fishery, the capability of vessels in the fishery to engage in other fisheries, and the economics of the fishery involved. Factory trawlers and floating processors displaced

foreign fleets and have been the principal American participant in the fishery. Unlike shorebased plants which rely on traditional high value species, such as salmon, crab and halibut, catcher/processors participate only in the groundfish fishery. No other fishery can provide the volume necessary to maintain this fleet.

The beneficiaries of a shoreside processor preference amendment will be the major Japanese fishing companies which dominate our export markets in Japan, and which formerly dominated the groundfish fishery off Alaska. These companies, which the U. S. factory trawler and at-sea processing fleet phased out of the harvesting sector, invest in, or wholly own, onshore processing operations. It makes no sense to promote business opportunities for these interests at the expense of U. S.-flag vessels.

A total investment in excess of 800 million dollars in U. S. catcher processing vessels has been made in the last few years. This has effectively "Americanized" this multi-billion dollar industry in keeping with the intent of the Magnuson Act. In the process thousands of jobs and millions of dollars in income, which as recently as 1986 went to foreign fleets and citizens, is now going to benefit U. S. citizens. In 1986 approximately 92% of the fish caught in U. S. waters was processed in foreign factories. By 1989, it is estimated that 86% of this fish will be caught and processed by U. S. citizens.

The policies and goals of the Magnuson Act with respect to Americanization of the groundfish resource off Alaska have been realized. Further amendment to the Act is unnecessary.

STATEMENT OF TINY SHASTEEN, OFFSHORE SYSTEMS

Mr. SHASTEEN. Good afternoon, and thank you for having me here. I'd like to also thank your staff for their patience and help. I've never testified at something like this before.

My name is Tiny Shasteen. I'm an Alaskan resident, and I'm a member of the City Council in the City of Unalaska. I've worked in the fishing industry for over 20 years, from shoveling shrimp in Kodiak to running the largest crab processing plant in the world in Unalaska/Dutch Harbor. And now I'm in the service industry in Unalaska/Dutch Harbor. I've fished crab, shrimp; I've been a longshoreman; a number of things in the fishing industry.

In considering the shoreside preference issue, I think it's really important to question the purpose of initiating such a preference. If it's to help protect the fishery, I don't think shoreside preference is the answer.

While I'm concerned about the factory trawler fleet overcapitalizing—and it's been mentioned here numerous times today; and that is a fact—the shore plants in Unalaska are doing the very same thing at a much higher rate. At this time there are two groundfish plants in Unalaska, one of which is more than doubling its size in production capability, and the other one is increasing it by factor much larger than that. And I don't have a number, but it's going from basically one building to an area of, I don't know, five, six acres. So they're making dramatic capital investments.

Also, there are two more plants being constructed in the Dutch Harbor/Unalaska area. As we speak, the dirt is being moved on those plants, and they're going to be every bit as large as the first two I mentioned. There are two more plants in the planning stages. And we're talking incredible amounts of money here.

I guess what I don't understand is why the shoreside processors, while continuing to expand at that phenomenal rate, are asking for favoritism over U.S. processors and fishermen, when adequate harvesting and processing capacities for the groundfish already exist. We've heard a lot of talk about overcapitalization, and it seems like they're trying close somebody out, and I don't think that's right.

The next item is, is the purpose of the prejudicial shoreside preference issue to bolster local business? If so, shoreside preference is not the answer. The business I am involved in has substantially grown because of the development and supply needs of the factory trawler industry. Many Alaskans are, in fact, a part of this industry, which consists of more than just the vessels themselves.

The factory trawler industry includes grocery stores, machine shops, electrical companies, electronics firms, shipyards, welding companies, fuel companies, vessel logistics companies, expediters, warehousing companies, storage firms, trucking companies, airlines, restaurants, taxi cabs, engine repair and sales companies, hydraulic repair and sales companies, shipping companies, ship supply stores, truck rental and refrigeration companies. And the shore plants provide most of the services for themselves that I just read off.

Is the purpose of the shoreside preference request to help improve the environment and water quality around our communities? That can't be, because even the processed effluent from the shore

plants in Unalaska/Dutch Harbor foul the water and the air with their biological waste. In contrast, the factory trawlers discard lots of effluent and don't treat it, but they discard it in deep water and over a much broader area, not at the end of a pipeline.

Another point, is the purpose of the shoreside preference request to provide an unfair advantage to foreign-owned business interests over a new American fishery made available by Congress, developed both in the foreign trade market and the domestic market by Americans, operated by Americans, and primarily—I say primarily—owned by Americans? I'm concerned that that is the case.

The issue has been mentioned a couple of times today that the factory trawlers are foreign-owned. Well, by law, they can't be more than 49 percent foreign-owned. And the shore plants, some of them are 100 percent Japanese. They've taken their factory trawler mothership operations offshore, and it's still Japanese companies, and now they're on the beach.

I'm concerned for the people in my community who are going to lose their jobs, but concerned that our communities will have to live with and pay for an oversized infrastructure—eaning water, sewer, electrical—demanded by and built for shore plants which have, in the past, and will again, close their doors, leaving excessive municipal debt and bond default as their monument to community support.

The answer to protecting the resource, developing stable local businesses, and promoting better control over environmental issues is limited entry, both at sea, and ashore, as soon as possible. And I should have underlined that.

Essentially everyone who testified before the Advisory Panel of the North Pacific Fisheries Management Council seemed to support limited entry. People who were against it a year ago, the writing is on the wall. After what Kodiak has gone through, I think it's obvious something's got to be done. That, as everyone here is aware, was a disaster.

And that way, if we have limited entry, we wouldn't be throwing the resource away either to the shorebased processors, or the factory trawlers.

And my final paragraph says: Please don't let the smoke generated by these two factions cloud the real issue; preserving the resource, supporting the growth of private business, maintaining a healthy ecology, and nurturing a new American fishery.

And I really believe that limited entry isn't an easy solution, and it's not one that many people like, but I think more and more people are facing up to all the time, that it's got to happen.

In defense of the factory trawlers, that film, I don't doubt that that happens often. There's a lot of waste in all the fisheries. But it doesn't make any difference whether it's a catcher boat or a factory trawler. If a catcher boat gets some fish onboard, and the percentages are off, they just dump them back. And the survival rate of that can't be too high, either.

I really don't see—I don't see a great difference between the two. The factory trawler has played a real important part in our community, and the shoreside plants do, as well. In Kodiak it's a completely different playing field than Unalaska/Dutch Harbor. It's to-

tally different, the two units. I don't think the same criteria should be applied to both locations.

And that's the end of my testimony. I apologize if I got too carried away.

[The statement follows:]

STATEMENT OF TINY SHASTEEN

FIELD HEARINGS, REAUTHORIZATION OF THE MAGNUSON ACT
JULY 6, 1989 - ANCHORAGE, ALASKA
FEDERAL BUILDING

INTRODUCTION

Mr. Chairman and Members of the Committee:

My name is Tiny Shasteen. I am an Alaskan resident and a member of the city council for the City of Unalaska. I have worked in the fisheries industry for more than twenty years and make both my home and living in Dutch Harbor. In those twenty plus years I have fished for crab and shrimp, managed and worked in shoreside plants which process many types of high value species, worked on at sea catcher-processors, have been a longshoreman, and now work in the support service industry. Thank you for coming to Anchorage and permitting an Alaskan businessmen like me to testify. My testimony today will be directed towards an aspect of fisheries management.

In considering the shoreside preference issue, it is important to question the purpose of initiating such a priority. Is it to help protect the fishery? If so, shoreside preference is not the answer. While I am concerned about the factory trawler fleet overcapitalizing, this problem is not unique to the fleet. The shore plants in Unalaska are doing the same thing in the groundfishery. At this time there are two groundfish plants in Unalaska, one is doubling it's output and the other is planning to increase it's output by much more than that. There are two

more plants under construction with an incredible production capacity which will be on-line in the not too distant future. One of these plants is even planning on building its own new vessels as opposed to using displaced joint venture vessels. There are also another two shore plants in the planning stages. Why are the shoreside processors continuing to expand at this phenomenal rate, and asking for favoritism over U.S. processors and fishermen, when adequate harvesting and processing capacity for the groundfish resource already exists?

Is the purpose of the prejudicial shoreside preference issue to bolster local business? If so shoreside favoritism is not the answer. The business I am involved with has substantially grown because of the development and supply needs of the factory trawler industry. Many Alaskan are in-fact a part of this industry which consists of much more than the vessels themselves. The factory trawler industry includes: grocery stores, machine shops, electrical companies, electronics companies, shipyards, welding companies, fuel companies, vessel logistics and expediting firms, warehousing and storage frims, trucking companies, vessel logistics firms, airlines, restaurants, taxi cabs, engine repair and sales companies, hydraulic repair and sales companies, shipping companies, ship supply stores and truck rental companies the many people who work in and own those buisnesses. Shore plants provide most of these services for themselves.

Is the purpose of the shoreside preference request to help improve the environment and water quality around our communities? This cannot be, since even the processed effluent from shoreside plants foul the water and air of our communities with unsightly and unpleasant biological waste. In contrast the factory trawlers discard their effluent in deep water away from coastal communities, and over a much broader area.

Is the purpose of the shoreside preference request to provide an unfair advantage to foreign owned business interests over a new American fishery made available by Congress, developed both in the foreign trade market and the domestic market by Americans, operated by Americans, and primarily owned by Americans? I am concerned this is in fact the case. I'm concerned for the people in my community who will lose their jobs. I'm concerned that our communities will have to live with and pay for an oversized infrastructure demanded by and built for shore plants which have in the past and will again close their doors. This leaves excessive municipal debt and bond defaults as their monument to community support.

The answer to protecting the resource, developing stable local businesses, and promoting better control over environmental issues is limited entry both at sea and on shore as soon as possible. Essentially everyone who testified before the Advisory Panel of the North Pacific Fisheries Management Council at the June meeting supported this concept. In this way we will not throw the resource away to either at sea catcher-processors or foreign business interests.

Please don't let the smoke generated between these two factions cloud the real issue: preserving the resource, supporting growing private businesses, maintaining healthy ecology, and nurturing a new American fishing industry.

Senator STEVENS. No, we're pleased to have your comments. And I'm sure there's not total unanimity; there never is in the fishing industry. So that's nothing new.

I've got to tell you, I didn't hear before today of the pollock roe fishery. You fish pollock roe, Bob?

Mr. MORGAN. Well, we fish pollock during the roe season.

Let me say this: We have never stripped pollock for roe. It's abhorrent to me. I don't condone it. I totally support the abolition of it. But we do catch roe-bearing pollock and process the whole pollock. We utilize the roe, and we process the meat into surimi or meat.

Senator STEVENS. There's been no suggestion that we eliminate the floating processors, or the catcher/trawlers. But the great problem, it seems to me, is to try and find some way to get a balance. The harvesting vessels are selling to some of the floating processors now, I understand. Is that right? Are you familiar with that?

Ms. BLACKBURN. Yes, there are—I think there are about six or seven floating operations, basically. The floating operation is not growing or expanding very rapidly at all. There are—as you are aware, there are a lot of trawling vessels that do not have a market.

Senator STEVENS. Well, that's what I was going to mention. I had some visits from the JV people, and they said they didn't have any solution to their problem. They had to go one way or the other. Can any of you comment on that? Why is that?

Mr. SHASTEEN. One of the new plants being built in Unalaska/Dutch Harbor, one of the big ones, they're not even using JV vessels. Not even the ones that would apply in the fishery. Some of them are too small. They don't have the tankage. They're used to transferring cod-end. But some of them are applicable to shorebased industry, and this one particular plant, which is Japanese-owned, they're building five new vessels to catch fish for the shore plant. They're not utilizing the displaced JV vessels.

Ms. BLACKBURN. May I speak?

Senator STEVENS. Go ahead, Chris.

Ms. BLACKBURN. I think some of the displaced JV vessels were originally displaced crab vessels.

And you have to—I think Tiny was really right, and I appreciate it. The Gulf and Kodiak are very different from the Bering Sea experience. Our JV vessels are back at our shorebased plants, and we actually are providing markets for some displaced Seattle JV vessels. But we do not have markets for all 120 JV vessels.

Senator STEVENS. It seems to me there's a defect here, because the JV phase was a significant phase in the Americanization of the 200 mile limit, and yet somehow or other those people who made that investment in the transitional phase are the ones that are suffering the most right now.

Ms. BLACKBURN. It was never envisioned that we would create our own high seas harvesting/processing fleet. You know, we always talked about floaters and shorebased. We never envisioned that we would have catcher/processors that left no room for catcher boats.

Senator STEVENS. To what extent is there foreign investment in the factor trawl fleet?

Mr. MORGAN. You know, I can't speak for the factory trawl fleet. I can speak for our company. We have some foreign investment, but I make a distinction—and I think a distinction needs to be made—between passive investors and foreign fishing ventures who want to control the resource. Our investors are passive investors who see this as an opportunity to get some return on their money. They have no knowledge of, or particular interest in, the fishery. They're investors like an investor in a bank or an investor in Post Toasties, or whatever. And there are some Japanese and Korean fishing investors in factory trawlers. But that's not the predominant. Those are a relatively smaller numbers of investors.

Senator STEVENS. The JV's had the CCF, didn't they?

Mr. MORGAN. Yes, they did.

Senator STEVENS. At one time I wanted to have the CCF be able to be invested ashore to develop a series of processing facilities for the JVs, and the House turned that down.

Ms. BLACKBURN. And we supported that very strongly.

Senator STEVENS. I know, but the problem right now is that those people are left without any processing capability, really, out in the Bering Sea, aren't they? They have it in Kodiak, but they don't have it in Southeastern, and they don't have it in the Bering Sea.

Ms. BLACKBURN. Well, Southeastern is not a large trawl area. There is little pollock there. I think the longline fleet has developed down there, and I'm not sure that I would say——

Senator STEVENS. Well, there was a JV phase, though, down there.

Ms. BLACKBURN. Only a small longline one.

Senator STEVENS. All right. Go ahead, Tiny.

Mr. SHASTEEN. Many of the JV boats—there were a number that were displaced crab vessels. But there are a large number of JV boats that have no capacity at all for tankage, because the JV fishery was predominantly a transfer cod-end fishery. They didn't put fish onboard.

So I don't—I really don't believe that those vessels, that that portion of the fleet—and I don't know how many vessels were cod-end only—they were all cod-end only, pretty much, but how many of them were not tanked to haul significant quantities of fish, I don't have the percentage. But I suspect it's fairly high. And those vessels couldn't fish for a shore plant. They couldn't do anything but transfer cod-ends. They're all engine, in a small vessel.

Now, I don't know what percentage of the JV fleet fits that parameter, but I suspect it's a fairly significant percentage.

Senator STEVENS. Where are most of those vessels now? Kodiak? Where is the JV fleet now?

Ms. BLACKBURN. Some of them are floating for the—fishing for some of the floater operations, of which I mentioned there aren't enough to go around. We have a couple of the larger vessels that were JV doing pollock in our community. But I know a lot of our boats that were JVs went back to the shipyards and reconverted for shorebased. And they did have to re-tank, re-fix-up, and re-outfit.

Senator STEVENS. There were some conversions?

Ms. BLACKBURN. Yes, there were conversions back. But I don't think—I think almost all the boats now doing groundfish went back for reconversion.

Senator STEVENS. Reed, go ahead.

Mr. WASSON. Yes. I wanted to mention, also, in the discussions that have been going on about shorebased preference and the presentations made to the North Pacific Council, there has been a lot of awareness that these JV boats have to have markets, that they were among the—really the ones who led the Americanization.

And there's been a distinction made for the floating processor which operates in a quasi-shoreside manner, in that it would be within a certain distance from the shore, it would amenable to inspection by the state authorities, it would pay fish tax. It would operate in a manner similar in many respects to a shore plant. And the whole purpose of that is to make sure there are adequate markets for the JV boats.

Nobody—certainly, nobody in the shoreside wants to cut out the JV boats or to cut out the factory trawlers completely. Really, what we're trying to do is insure that there will be some shoreside capacity continued. Because the way the situation is right now, in effect, there's a de facto at-sea preference, because the at-sea harvesting/processing capacity can come in and take all the fish from an area like Kodiak and move on. So what we're trying to do is equalize the situation, not put them out of business.

Senator STEVENS. The JV people are the ones who opposed limited entry, weren't they?

Ms. BLACKBURN. That switched back and forth. Alaska Draggers Association three years ago asked for a moratorium now, because they could see the growth of the factory trawler fleet coming. And some of the loudest factory trawler proponents of limited entry today were the loudest opponents of limited entry three years ago, because they didn't have their factory trawlers built.

Mr. SHASTEEN. Senator Steven.

Senator STEVENS. Yes, sir.

Mr. SHASTEEN. On the limited entry issue, I want to really stress the point that the factory trawlers are overcapitalizing, but the shore plants are no better. They really—you could take the argument for one, and put it out of the other's mouth, and it would almost sound the same. The shore plants are overcapitalizing equally as bad.

And either way you look at it, if we don't control the amount of fish taken out of the ocean, and make it stretch out over a time long enough to support the communities over a long period of time, as opposed to three months, shore plants or factory trawlers, it doesn't matter. The shore plants will do the same thing the factory trawlers are facing now.

Senator STEVENS. Well, how do you answer Harold Sparck's comment that the restrictions we placed upon the foreign fleet that operated within our 200 mile limit under permit, which were factory-type trawlers, have never been applied to our own factory trawlers as they've grown up, so that they are harvesting multiple species, and they are wasting a considerable portion of the by-catch? How do you answer that?

Mr. SHASTEEN. Well, I think that having observers onboard—and that was before the Council—I think that's going to go a long way to identifying what it really is.

Senator STEVENS. Well, how would having an observer onboard do any better than having that tape?

Mr. SHASTEEN. Because the observer could report on that, on what vessel it was, and it would be corrected. I don't think that's predominant in the industry. I really——

Senator STEVENS. Well, that harvest by-catch was obvious. There were two lesser species there—not lesser, but I mean, halibut and——

Mr. SHASTEEN. Major.

Senator STEVENS. Yes. Two major species being harvested incidental to another operation.

Bob, do you——

Mr. MORGAN. That operation that was shown there, I don't know whose operation it was, but it was despicable. And I don't—that is not representative. I don't doubt that that goes on. That goes on. That goes on in any fishery. People abuse the fishery. That goes on. But that was not a representative portrayal of the factory trawler. We—our factory trawler focuses, targets on pollock. We don't want to be in an area where there's by-catch, because it inhibits what we do.

And I think as Tiny says—and we totally support it—we have had a—voluntarily, we have had an observer on our vessel since March of this year. Voluntarily. We pay him. We pay the expenses, the whole bit. And I think that that is the answer. The Council has wisely dealt with that. We do need observers. We do need to make sure that the laws are obeyed.

But I'd like to say one thing about overcapitalization. It seems to be a fair amount on a lot of people's minds. You know, that either is, or isn't. I don't know whether there's overcapitalization or there isn't overcapitalization. But if there is overcapitalization, it's a done deed now, and the economics of the business will take care of that. That's not a matter that can be legislated, I don't think.

What can be legislated is the conservation of the resource, and I think that's what you want to do, and I think that's what all of us want to do.

Senator STEVENS. Well, that's what impressed me when I was out at Dutch Harbor. A couple of young fellows were talking to me out there and said that the pressure on the factory trawler was much different than the pressure on the harvesting vessel that was looking for a market, from a processor, because they had both the capital investment in the boat, and in the processing facilities; and therefore, that they just had to operate longer, and they had to operate under greater compulsion to have a through-put in the processing facilities in order to make payments to the bank or the investors.

Now, it does seem that there's a greater pressure on the resource now than there ever has been before. There's a greater pressure now than there was before the 200 mile limit bill was passed. And I think we've got to get back to conservation somehow.

I don't know how—you know, Bob, you say that there's overcapitalization, and so do you, Tiny, in both the shore and at sea. Well,

that just means to us that the problem is more compounded than we thought.

And I don't think we're in the business of rationing capitalization; but we're in the business of trying to protect the resource. And the resource is the thing, you know, that's at issue here. There's too much pressure on the North Pacific.

And I'm not sure that—Bob, you say don't amend the Act. I'm not sure the Council has the total power to protect the resource base, and to assure that it's going to persist, with this overcapitalization both at sea and ashore.

Mr. MORGAN. One thing, if I may, senator. I didn't say there was overcapitalization. I said I don't know whether there's overcapitalization. And I said if there is, it will correct itself in the market place.

Senator STEVENS. I see.

Mr. MORGAN. But for me the answer is in the management of the resource. If scientifically we determine that the total allowable catch is X, then we assure that that's all that's caught. And that protects the resource.

The other thing, as I mentioned, coming up earlier, is the donut hole issue, which is of concern to us. The fish, again, know no boundaries. You know, they don't—the same fish go back and forth between the donut hole and U.S. waters. So I think until we get a handle on the donut hole, that's a significant major part of the problem—of solving the problem.

One of the things I'd like to see happen—and I seem to be alone in this—is that we take some kind of unilateral, or hopefully bilateral position with the Soviets and try to declare a moratorium, which I realize cannot be enforced by law, but it can be a potent force by public opinion. Because you're not going to get those people who now benefit from fishing the donut hole—you're not going to get them to the table and resolve the management of that until you stop everybody from fishing there, and until there is management. And that will protect the resource a lot more than trying a method of favoring one group over another.

Senator STEVENS. Well, that incidental catch there of halibut that we saw in this film was sizable.

Mr. MORGAN. That's right.

Senator STEVENS. And he was spending most of his time handling halibut. And it wasn't halibut season.

Ms. BLACKBURN. Trawlers can't take halibut legally anyway. They all have to be discarded. And he was skewering them and throwing them over dead.

Mr. MORGAN. The key to an operation like ours is that you run 24 hours a day. And you can't run 24 hours a day and maximize your production if you're monkeying around with halibut and black cod. You avoid those areas where black cod and halibut are, because that's just good business practice.

Ms. BLACKBURN. I would disagree with Bob, though, that quotas are adequate. If quotas were adequate for good management we wouldn't have the problem of lost and wasted halibut in the halibut fishery, where it is so fast and so intense that guys are throwing out more longline than they can pull back in, just to make sure

they get all they can. And you know, halibut, estimates are over 1,000 tons lost in the fishery itself, just on lost gear.

And I think any time you have a race for the resource, or intense pressure on the economics, you're going to have problems with the resource—care for the resource. And the bigger the operation, and the more it can take, the more damage you can do, and the quicker it's going to get to that point where it's going to have to disregard conservation, just to survive.

Senator STEVENS. Well, I think that the incidental catch bothers me more than anything, in terms of this conservation goal. And I really don't know how we can handle that. I don't think it follows that only factory trawlers have incidental catch. But certainly the pressure on a factory trawler to operate 24 hours a day means that they've got to keep moving to where they can catch fish. And they're going to have a greater pressure on them than a vessel that can lay up once in a while.

And I have a real feeling about these trawlers, in terms of finding a way to get them to operate in an area where they will not have that incidental catch. Why should they be operating in areas of black cod, and areas of halibut? And I think the Council has the power right now to close areas to trawler operations.

Are there any areas that are closed to trawler operations now?

Ms. BLACKBURN. In the Gulf of Alaska we have closures for crab areas. We now protect 90 percent of the king crab and 75 percent of the tanner crab. And there are also closed areas in the Bering Sea. Halibut are so wide-spread that it would be impossible to close areas and adequately protect halibut, and still have a groundfish fishery. But we are learning in Kodiak—and Reed might want to address that—how to fish and reduce our halibut catch.

Senator STEVENS. Well, then, why don't we approach it the other way? If they're going to catch halibut, why don't we find a way to force the preservation of that halibut, and turn it over to the people whose goal is to process it, so that you don't have more people catching more halibut, but instead they're processing the halibut that the trawlers have caught?

Ms. BLACKBURN. I think a lot of us would like to see that, but the Halibut Commission is certainly not in favor.

Mr. MORGAN. I would—there's a certain amount——

Senator STEVENS. I'm not giving you any payment for it, you know. I mean, I think you ought to pay a penalty for catching halibut.

Mr. MORGAN. No, there couldn't be any payment for it. That would not work. But there's a certain amount of incidental catch that's inevitable. And I think the crime is returning it to the sea where it's no value to anybody. The catcher or the processor shouldn't benefit economically from it, but it ought to be preserved and the money that's made from that put into some fund to protect—whatever. Some general fund. And that's a better solution than trying to draw a line. Certainly nobody should benefit economically. It should go into some fund, management thing, or whatever.

Mr. WASSON. I'd like to comment a little more on the point Chris made of the difference in the fishery when you have a race to get a

quota before the next guy, and when you have a quota that the fishermen and the plants expect to last for most of the year.

We've had an observer program on our fleet which we are paying for in conjunction with the fishermen, and it's administered by the Department of Fish and Game of Alaska. The purpose of that was to monitor halibut by-catch in the sole fishery, because it's a new fishery, and see if our boats could get that down below the assumed rate that has been used by the Council. And our boats have been successful in getting it down to less than half of the assumed rate that had been used up to that point.

And the way they did that was to stay deeper, basically, than the halibut during this entire winter and spring period. Search around, find where the halibut are, and stay outside of that. Stay in the deeper water, when they're fishing for the Dover sole and rex sole, the deep water sole.

But you can't do that if you're ripping into an area and you know you're going to—your quota is going to be gone in three weeks. You know, the difference in what the factory trawlers did in Kodiak this spring, and the Central Gulf, where they went through the whole rest of the quota in three weeks, if that quota had—if there had been a shoreside quota there, matched to the needs of the existing Kodiak plants, and the boats and the plants knew that it was going to last at least for most of the year, we would have gone out and utilized the fish, harvested it in the amount where they weren't taking more than they could handle, and bring it in in a balanced manner.

But if you say, okay, the race is on, and in three weeks it's all going to be gone, everybody goes out and gets as much as they can, and—you know, they went through it, roe-stripped it, just trying to eat it faster than the next guy. And I think that's one of the real reasons that a shoreside allocation would help conserve the resource, because it would promote a balanced year-round fishery, rather than this kind of quick race to gobble it all up.

Senator STEVENS. Bob, how many factory trawlers are Alaska-based?

Mr. MORGAN. I think All Alaska has four, and we will have three. That's seven.

Mr. SHASTEEN. Well, I've got a problem with that, because in Unalaska/Dutch Harbor, virtually every one, except for yours, has "Seattle" written on the stern. They don't go to Seattle. They're Dutch Harbor. We sell them fuel. We repair their vessels. We ship their product. We receive and warehouse their supplies. We house their crews at crew changes. We warehouse their nets. We sell them fishing supplies. So they could have Timbuktu written on their sterns, but if they never go there, then to me they're based in Dutch Harbor in Alaska.

Senator STEVENS. Well, I'm getting into an area that's really the business of the Council, and I don't like to invade them. But it does seem to me there are zones, you know, popping out on the map, as far as I'm concerned, in terms of this issue. Beyond just allocation of quota, there's also zones that ought to be somehow or other established, because it does seem there's a Bering Sea, and there's a Kodiak area—there's also a Pribilof area—of fishing concepts coming out in this hearing, at least, that I would pursue.

But I don't think we should pursue that on the Federal level. I don't think Congress is going to do that. If we spent all our time drawing zone lines out in those Council zones, we'd soon just be having the National Marine Fisheries Service run the Council areas again. So that's not going to be productive at all.

But I do think that you ought to deal with the Council about trying to see how the Council can exert more of its own powers, existing powers, to deal with some of these problems. Some of them are really Alaskan. Uniquely Alaskan.

Go ahead. You have something, Chris?

Ms. BLACKBURN. Oh, I was just going to say, we are dealing through the Council, as you're aware. And I guess our concern with the Magnuson Act was merely a clarification that conservation and methods used to insure conservation are all open to the Council. Right now, the way we read it, I think it's unclear and arguable in that the at-sea catcher/processor is not addressed at all as its own entity.

Senator STEVENS. I got that, and I made a note of that. And I think you're right. I think that that was just not contemplated at the time. At least we ought to make clear what the Councils' authority is with regard to combinations of vessels that are described under the act.

Yes, Tiny?

Mr. SHASTEEN. The reason that I got involved in politics in Alaska was, there's a couple of issues that kind of worried me. And the reason I started to get involved with this issue is because there were a couple of things that bothered me. A resolution was brought to the City Council from the shorebased processors, and they had set aside an area where 90 percent of the fish are harvested that they wanted exclusively for shorebased.

Now, I'm not saying that the factory trawlers are angels, but what concerns me is the middle man who is not a factory trawler, and isn't in a shorebased big plant. What concerns me is, both sides are really greedy, and I don't want to see these shorebased plants in Unalaska/Dutch Harbor build a fence around 90 percent of the harvestable catch.

Senator STEVENS. Well, I want to thank you all for taking your time to help us present the record here. We're going to give a lot of attention to it, I can assure you.

If there are any further comments that people want to file—I've just been notified I've been asked to come back to a prior meeting I was at—I would appreciate if those of you who have other comments would give us statements that we can include in the record. And we can do that until probably about a week from today.

Two weeks from today, they say, that we could receive and still handle comments. And if any of you who have made statements want to add to your statements, please do so.

I indicated this morning I might be able to continue, but I've got to go back and deal with the problem of the oil spill.

But again, if you have statements that you'd like to submit, if you just send them to me at the U.S. Senate in Washington, D.C., we'll be pleased to include them in the record.

I've got to say, for the record, that the determination of the attachments that are attached to various statements is made by the

chairman as to whether they're printed in the record, but they will be kept in the files of the Senate Commerce Committee in any event.

I appreciate what you've done to help us make this record. It's a subject that Congress must deal with, as far as I'm concerned, this year. And I hope that it will, at least in terms of clarifying the terms of the act. At the very least, I think they need clarification.

Thank you very much for your time.

[Whereupon, at 2:15 p.m. the hearing was adjourned.]

OVERSIGHT OF MARINE FISHERIES MANAGEMENT

FRIDAY JULY 7, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
NATIONAL OCEAN POLICY STUDY,
Seattle, WA.

The National Ocean Policy Study met at 10 a.m. in the Auditorium of Seattle-Tacoma International Airport, Seattle, Washington, Hon. Brock Adams presiding.

OPENING STATEMENT BY SENATOR ADAMS

Senator ADAMS. The committee will come to order.

Senator Packwood, Senator Gorton, and I are pleased to welcome all of you this morning to this National Ocean Policy Study hearing. This is a very important hearing, as we are well aware.

We have a great many witnesses this morning and I know there were many more who wished to testify. Therefore, we ask that each of you limit your testimony to five minutes. I will ask of my colleagues right now, if is there any objection to an order that all statements appear in full in the record?

Senator GORTON. That's fine.

Senator PACKWOOD. Right.

Senator ADAMS. If not, it is so ordered.

Therefore each of you can be assured that your statement will appear in full in the record as if given. Now, if you wish to read your statement that is up to you. You may use your five minutes as you would like. You may summarize, you may give it orally. You will be heard.

We have discussed hearing procedures and to ensure that everyone is heard we will refrain from questioning until the end of the panel. Then if either of my colleagues or I have a question we will address it to the panel.

We have three panels this morning and pursuant to the rules of the Senate I will give an opening statement which is simply set the pattern for the hearing. I'll ask my colleagues if they wish to make an opening statement and then we'll proceed with the first panel.

This is a hearing on the Magnuson Act reauthorization. Nearly fifteen years ago the late Senator Warren G. Magnuson authored the Act that now bears his name, the Magnuson Fishery Conservation and Management Act. We are here today to discuss how well the federal management efforts under that Act are serving our na-

tional fisheries resources, and the fishermen of the Pacific Northwest.

One of the primary goals of the Magnuson Act was to Americanize the U.S. fishery. In this regard the Act has been a stunning success. In the North Pacific the fishery is now fished by U.S. fishermen. With this success, however, comes a new and difficult challenge, the allocation of the fishery among competing U.S. fishermen. This year is further complicated, of course, by the Alaska oil spill. In facing this challenge we must keep two goals in mind.

First, our primary focus must be on the preservation and conservation of the resource. Without the resource, there is nothing. It must not be squandered for short-term financial gain, no matter how attractive that may seem at the moment. The federal government has a duty to actively protect this resource, and we need to determine if the government is doing its job.

Second, we must be fair to all sectors of the industry. Solutions that drastically favor one group or state at the expense of another should be avoided.

Now, this concludes my remarks.

Before turning to the panels, I'd like to ask my colleagues if they have opening statements that they would like to give.

Senator Packwood.

OPENING STATEMENT BY SENATOR PACKWOOD

Senator PACKWOOD. Just very briefly, Mr. Chairman, I appreciate your holding the hearing here so that our witnesses, and by that I mean Oregon and Washington and Alaska, who could not come to Washington to testify can, and I'm sorry that my old friend Frank Bohanen cannot be here. He had a heart attack earlier this month, and has been told to take it easy, but Doug Gordon is replacing him and I know he'll do a good job.

Senator ADAMS. Thank you very much.

Senator Gorton.

OPENING STATEMENT BY SENATOR GORTON

Senator GORTON. Thank you, Mr. Chairman.

It's wonderful to have an opportunity to have a hearing on this subject in the real Washington, and it's the third Senate Commerce Committee meeting on the Act, the first having taken place in Washington, D.C. in May and the other yesterday in Anchorage. I'm pleased, as was Senator Packwood, at being able to hold a hearing here in the Pacific Northwest, because it's critical for us to hear from witnesses who might not otherwise have been able to testify. This testimony will provide the Committee with a first-hand account of the day-to-day experiences which many of our fishermen and processors face.

I don't know that I can think of a single other industry which has experienced the rate of growth that the commercial fishing industry has in the last three years in this part of the country. To think that the industry now contributes twice the economic benefits to the Washington State economy that it did just three years ago is astounding.

What is even more amazing is that raw data. Over 3.1 billion dollars is directed in direct impacts of more than 36,900 jobs. The tremendous growth of the fishing industry is one of our great success stories. Who would have thought that just a few years ago that U.S. fishermen would have the capacity to harvest the available groundfish of the Bering Sea and most of the resource available on the Gulf of Alaska.

But with success come many questions about the future, as you've already pointed out. Some of the answers are more obvious than others. For instance, with the Americanization of the industry the foreign observer programs have been phased out.

I'm concerned that a method must be found to gather scientific data on the resource by which sound management decisions can be made. Clearly we need a comprehensive observer program to gather data both on the fisheries and marine management. The issue of high seas interception of salmon by the Japanese, Twiwanese and Koreans has finally begun to be addressed at the top level of our federal government. It was only by repeated calls and letters by so many of us from the Northwest that we were finally able to bring national exposure to this terrible practice. We have begun to see some results from our efforts with the recent agreement with the Taiwanese but far more work remains to be done.

And last, it's apparent that our fisheries resources must receive a higher funding priority on the part of the administration and the Congress. While some criticize NMFS and NOAA for not playing an active enough oversight role in the Council's decisions, we need to give those agencies the funding resources to do the job as well as instructions to do so.

Other questions about the future aren't so easy to answer. Intergear and interregional conflicts are a fact of life in the business today. These conflicts are not small ones. Yet the answers are vital to people's livelihood and they are vital to the protection of the resource, and as a consequence I really look forward to hearing the testimony presented today and to working with everyone to see whether or not we can reach appropriate answers.

Senator ADAMS. Thank you, Senator Gorton.

The first panel this morning will consist of, and I would ask that they all come forward at this time, Mr. Terry J. Baker, President of the Arctic Alaska Seafoods, Capt. R. Barry Fisher, President, Yankee Fisheries, Mr. Douglas Gordon, Executive Director, American High Seas Fisheries Association, Mr. Ted Smits, North Pacific Fishing Vessel Owners' Association, and Mr. Knorad Uri, K Fisheries.

If you would all please come forward?

Gentlemen, it's a pleasure to have you here this morning. Why don't we start with testimony, starting from left to right, and each of you will have five minutes. As I said, we're not trying to cut anybody off, we're trying to be certain that everybody has their opportunity. All statements will appear in full in the record therefore you may summarize your statement, or proceed in whatever fashion you deem appropriate with your five minutes. Please give your name and the organization which you represent as you start, for the purposes of our recording. Thank you.

STATEMENT OF TERRY J. BAKER, PRESIDENT, ARCTIC ALASKA SEAFOODS CORP.

Mr. BAKER. Good morning. My name is Terry Baker. I'm President of the Arctic Alaska Fisheries Corporation. I appreciate the opportunity to present my views on reauthorization of the Magnuson Fishery Conservation and Management Act.

The U.S. groundfish industry, particularly in the Pacific Northwest and Alaska, has become large in tonnage but is still developing and is very fragile. It has developed under the environment provided by the MFCMA and any significant changes in this environment could make it crumble as fast as it developed.

The MFCMA as currently written gives the Regional Fishery Management Councils the flexibility they need to wisely manage the fishery resources while the U.S. groundfish industry fully develops and becomes firmly established in the national and international business worlds. Domestic fishing operations are replacing foreign fishing operations which only a short time ago dominated the groundfish fisheries in the U.S. E.E.Z. The U.S. groundfish industry is developing the technology needed to efficiently harvest and process the fishery resources and to compete with the foreign fleets which for decades have dominated the marketplace. The U.S. groundfish industry is sensitive to the needs and interests of other U.S. fisheries, salmon, crab, halibut, herring and et cetera, and it is achieving peaceful coexistence with those other fisheries.

The foreign involvement in the groundfish fisheries in the U.S. E.E.Z. continues and the U.S. groundfish industry must be allowed to complete the Americanization process under the same laws and policies that have promoted huge investments and commitments. To change the MFCMA or its national standards at this time to give any interest group, gear type, processor type or business group an advantage, preference or other favorable treatment would be totally unfair and financially devastating to those put at a disadvantage.

It has taken enormous investment and risk to develop the U.S. groundfish industry. Statistics of Arctic Alaska Fisheries Corporation are reflective of the investment made and risks taken to develop the U.S. groundfish fishery and the benefits that accrued to the nation on that investment.

In 1984 Arctic Alaska had a fleet of four at-sea catcher processor vessels that represented an investment of 15 million dollars and that employed 185 people with an annual payroll of 2.8 million dollars. Today Arctic Alaska's fleet includes 18 at-sea catcher processor vessels that represent an investment of over 165 million dollars and employs over 2,000 U.S. citizens with an annual payroll of 39 million dollars. In late 1988 Arctic Alaska opened a shoreside processing facility in Seattle that employs an additional 95 persons with an annual payroll of 1.3 million dollars.

Arctic Alaska is only one of many companies that have made such an investment and created so many new jobs. This has occurred under the provisions of the MFCMA.

One part of the MFCMA I encourage Congress to examine is Section 302(b)(1)(c). There needs to be more emphasis on the requirement that Council members be individuals who are knowledgeable

or experienced with regard to the management, conservation or recreational or commercial harvest of the fishery resources of the geographical area concerned. Governors submitting Council member nominations to the Secretary should be required to submit documentation that the nominees have the required knowledge or experience. Further, governors should not be permitted to submit throw away nominations to favor one nominee, as has become common practice.

An additional requirement Congress should consider is that Council membership be representative of the industries it is regulating. I find it unbelievable that the at-sea catching processing segment of the groundfish industry which harvests and processes the vast majority of groundfish the Council is responsible for managing has no representation on the North Pacific Fishery Management Council, yet other segments of the groundfish industry have multiple seats on the Council.

This deplorable situation must be corrected by the MFCMA. Further, Council members should be required to follow a code of ethics which preclude them from directly benefitting because of their Council membership and/or their votes.

The MFCMA has provided for orderly development of the U.S. groundfish fishery. As currently structured it provides the flexibility needed under the continually changing conditions surrounding fishery development and it protects the resources and environment. Other than the deficiencies in Council membership noted above, the MFCMA is properly structured to successfully continue the Americanization process.

Thank you again for the opportunity to share my views with you.

Senator ADAMS. Thank you very much, Mr. Baker, both for your timing and for your statement. It was extremely well done.

STATEMENT OF DOUGLAS GORDON, EXECUTIVE DIRECTOR, AMERICAN HIGH SEAS FISHERIES ASSOCIATION

Mr. GORDON. Mr. Chairman, members of the committee, my name is Doug Gordon. I represent the American High Seas Fisheries Association, which is an association of catcher vessels which originate from the states of Washington, Oregon, California and Alaska. We are the ones that are caught at the margin right now by the so-called Americanization process.

I won't wade through this tome but I'd just like to touch on some high spots.

With regard to the goals that Senator Adams mentioned on the preservation of the resource and is the federal government doing its part? We would say no, it's not. Basically what we have in the fishery up north is an overloaded situation. Under open access, new vessels keep coming in under the D.A.P. processor preference. What we have is a bunch of U.S.-built, -owned and -operated vessels tied up while this effort floods into the fishery. They roe strip and dump the pollock they catch overboard and we're tied up under the present implementation of the law. We don't think that's fair.

We're also in a bind in the sense that most of the members do have a D.A.P. market. We have acquiesced to the changes in the

rules midstream; the processor preference and the Anti-reflagging Act which removed foreign reflagged processors as a possible market for us. But most of us have D.A.P. markets but which don't kick in until the end of 1990 or later. Some of them will deliver to shore, some of them will fish to floating processors that are coming in. We place ourselves at your mercy, if you will, and ask for consideration for some sort of transitional quota for these American vessels that will enable them to make that transition form J.V.P. to D.A.P. To allow US fishermen with a definite future market to survive in the meantime.

With regards to the management process, what we have is a situation where the federal agency, NOAA, bows to the Council, and the Council whenever it hits a sticky issue bows to the industry, and so we have the situation that we have right now. A short-term selfish approach to the situation, "keep the fishery open to let me get my factory processor or shoreside processing facilities built," and then we predict that you will hear the calls as you are already, from some people who have got themselves situated in a fishery, for limited entry.

Now, the Act in Section 303 provides for that consideration so it's very difficult to say that it's inadequate until we try and use it. In the past we have advocated the use of catch histories as a basis. In other words, that the commitment and dependence of fishermen over time be the basis for quasi privatization of the fishery. Catching rights, if you will. That hasn't happened in a timely fashion.

We advocated a moratorium in December, under a live-and-let-live policy, that would have enabled time to be bought to implement a better regime. That hasn't happened.

We have in our testimony advocated a preferential system which would reward American content, tone Americanization. We applaud the actions of the congressman and senator form Oregon and their call for G.A.O. investigation into the setting of the O.Y., the implementation of the processor preference and its effect on American fishermen, and the foreign content in the fishery.

But all those things are unlikely to happen in a timely fashion and that is why we, on the one hand, are requesting a consideration of our situation in regards to a transitional quota, and on the other we support some reasonable form of on-shore preference. We would couch it in terms of vessels fishing to shore based plants rather than processors. Everything seems to be couched in terms of processors these days. We're afraid the traditional American fisherman may be on the verge of extinction.

There's a lot more, gentlemen, I'd like to say about good management, policy, the need for observer coverage, full accountability and full utilization of the catches and their disposition, but my time is up.

Senator ADAMS. Thank you very much, Mr. Gordon. It's an excellent statement and we've included it in full. I'm sure we'll have some questions.

[The statement follows:]

STATEMENT OF DOUGLAS B. GORDON, EXECUTIVE DIRECTOR, AMERICAN HIGH SEAS FISHERIES ASSOCIATION

Introduction

Mr. Chairman, members of the committee. My name is Douglas B. Gordon. I am the Executive Director of the American High Seas Fisheries Association.

Normally Frank Bohannon, our President would deliver this testimony. However he was struck by a heart attack whilst in the Hake JVP fishery on Thursday 22 June. He is under strict doctor's orders to rest and therefore is unable to testify. We hope you will understand. Frank, as a true pioneer and highliner in the Northwest bottomfish fisheries, very much wanted to be here.

Thank you for creating this field hearing opportunity for us to testify before you. Because we have already submitted written testimony for the record we propose to summarize important areas therein; answer some questions which arose from the May 17, 18 hearing and discuss the requests we have made regarding our survival, and the future of the fishery.

Summary

The fishery resource in the 200 mile zone off Alaska is finite and the common property of all Americans.

Combined circumstances as result of U.S. laws, their interpretation and implementation have resulted in over-capitalization of the fishery and the rapid dominance of it by "foreigners". The traditional U.S. fisherman, under the banner of "Americanization" is being displaced at the harvesting and marketing levels.

The balancing of the man-fish equation implicit in the national program of conservation and management is on the verge of moral and practical bankruptcy. There is widespread waste and no accountability in the fishery.

In recognition of these circumstances we propose measures for the fishery designed to promote: responsible behavior; true "Americanization"; and the American fisherman's right to sell his or her catch into the market of choice; as follows.

o Full Accountability and Full Utilization of all catch under management.

  - Support 100% mandatory observer program with data collection covering at least 20% of the catch disposition under the optimum yield; and compliance with measures under full utilization.

- Oppose the practice of roe stripping unless accompanied by full fish protein utilization first for human, then industrial purposes.

- Support mandatory retention of bycatch, no high grading or dumping at sea of fish or waste. Support incentives and measures to minimize discards and bycatch of prohibited species.

- Request bycatch allowances be expressed as percentage not in absolute numbers.

o Support a measure of User Fees to defray costs of management beyond administration.

- Request mechanism and level; be mutually agreed to by industry and managers, be pitched to cover defined needs and costs in the regional fishery, fair and equitably levied across the fishery, and that funds remain in the region of origin. Support thrust of H.R. 1554.

- S-K funds, levy on imports, sale of bycatch are other sources.

- Support mandatory bycatch retention including prohibited species, processing, storage, landing, forfeiture without profit, sale with proceeds to defray management costs.

o Support an Optimum Yield set at the sum of the Acceptable Biological Catch levels of the component species in the fishery.

- Support investigation into the legality of present OY cap set at 74% of the sum of the ABCs.

- Support raising the cap under certain other conditions including recognition of the position of traditional U.S. harvesters through their catch histories.

- Request that qualifications of Council members to manage fisheries be tightened and that rotation of user group positions for one year terms be considered.

o Request full accountability of DAP requests - utilization in Processor Preference Survey.

- Support GAO investigation of the process.

- Request Agency tighten survey, remove veil of confidentiality, prevent double-dipping and discrimination against U.S. fishermen it causes.

- Propose real-time preference at catch level; equitable access for U.S. fishermen at resource and market levels.

o Support Congressional Investigation into present foreign content and position in the fishery and legality of Agency paths through which position is gained. Propose results be used to recognize U.S. content in allocation.

- U.S.C.G., "rebuilds", "conversions".
- Customs, dutiable components.
- Immigration, manning of vessels.
- IRS, 130% financing and kick-backs.
- U.S.C.G. - Justice, exercise of foreign controls.

o Request the development of standards and guidelines upon which access rights to the common property be based.

- That catch histories and American content be given high priority.

o Request Interim Transition Quota for U.S. built, owned and operated vessels caught by "Americanization" in transition from JVP to DAP market.

- That business plan of transition be prerequisite for allocation.

o Propose new ranking of priorities for access and allocation which recognizes commitment and dependence on the fishery and true American Content.

Questions arising from the hearing May 17,18, 1989

(1) It has been suggested that the decision about the total permissible catch, from a biological standpoint, should be clearly separated from the allocation question about who should be permitted to catch it, from a social and economic standpoint.

- Do you agree with that suggestion?
- If so, who should decide the allocation question?
- What criteria should be utilized to decide how much of a biological permissible quota should be allocated to each group of sportfishermen, seiners, trawlers, etc., all whom are competing for the same fish?

(2) With regard to membership on the Councils, Section 302(b)(2)(A) of the Magnuson Act requires that the Secretary, to the extent practicable, ensure a fair apportionment of seats to representatives of the active participants in the fisheries.

- What do you think that phrase, "fair apportionment" should be interpreted to mean?
- Should the Secretary be required to take a snapshot of the fishery, analyze the relative proportion of sport-fishermen, seiners, trawlers, etc. engaged in it, and ensure the same proportional representation on the Council?
- If not, how should it work?

(3) The fisheries of the North Pacific are evolving, and the types of vessels and people participating in them are changing as a result of various provisions of the Act.

- Is the Act adequate to guide decisions about how the fisheries evolve?

- For example, JV fishermen will be phased out shortly as a result of provisions in the Act, and many domestic trawlers without processing capability may be unable to compete offshore with domestic factory trawlers. Should the phased-out trawlers enter the nearshore fisheries that are already being fully utilized? Should they be forced to go out of business? What is the national interest here, and who decides? What do you view as NOAA's role in guiding the evolution of the fisheries?

Answers

Question #1

Yes, determination of the "how much?" harvestable component of a fish stock, to the greatest degree, ought to be separated from the allocation question; who may catch it?

This is on the premise that stock assessment, as a research function, may stand objectively apart from the utilization question, and determine a range of harvestable biomass estimates. A choice within the range would not constitute over-fishing.

There many be, however, a degree to which amounts of catches on a seasonal or annual basis, and the size and species of fish preferred by the market; might influence the allocation of the harvestable biomass from year to year.

If one is committed to the notion that the harvestable component is finite, but at least able to be expressed over a range, then that is the first position to establish to the best of ones ability. Associated with this commitment is the notion that the fishery resource is the common property of all the people of the nation. As such, withdrawals should be accounted for under a policy towards full utilization for human consumption.

Who should decide the allocations? People, a person, who is qualified. What constitutes qualification?

Understanding the fishery includes a knowledge of both the fish and human resources in the fishery, and the relationship within and between them and their greater communities. This extends to the coastal communities where there is commitment and dependence on the fishery through fishermen, processors, and the industries which support them; on out to the place of the fishery in the national interest and in the world market.

The ability, under the law and within the national program, to effect a balance in the management of the man/fish relationship so as to prevent over-fishing of the fish stock and to prevent over-capitalization and business failure among the human resource.

The faculty to use knowledge, wisdom, and understanding about the fisheries within the parameters governing the process to arrive at an allocation system suitable for various fisheries under the goals and objectives for that fishery.

Ultimately understanding a conjunction of the laws governing natural fish populations in their environment, with the laws

governing human populations and social behavior in their environments. From that, the wisdom and understanding to induce or arrive at an acceptable allocative level, mechanism, and process of implementation that is fair and equitable and in the national interest.

What criteria should be used to allocate among user groups from sports fishermen to various commercial user groups?

Firstly, let us assume there is a situation where the sum of the requests for fish exceeds the defined harvestable component of the stock. There is a need for allocation to attempt an orderly and stable fishery. Presently there is a feeble attempt to know the harvestable component, to account for withdrawals, and to keep the fish side of the equation fixed; while keeping open the human fish capacity and effort entry side of the equation. There is a three tiered system which relies on surveys, written and telephone, to assess needs and to allocate to them from within an approximated total allowable catch.

The Act, specifically Section 301(a)(4), the National Standards for Fishery Conservation and Management says "if it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocations shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote conservation; (c) carried out in such manner that no particular individual, corporation, or other entity, acquires an excessive share of catch privileges.

Further, Section 303. Contents of Fishery Management Plans. Specifically Section 303(b)(6), Discretionary Provisions; "Any fishery management plan which is prepared by any councils; or by the Secretary, with respect to any fishery, may establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such a system, the council and the Secretary take into account (a) present participation in the fishery, (b) historical fishing practices in and dependence on the fishery, (c) the economics of the fishery, (d) the capability of fishing vessels used in the fishery to engage in other fisheries, (e) the cultural and social framework relevant to the fishery, (f) any other relevant consideration".

It is clear that these two Sections, 301 and 303, provide a basis for two things. (1) They provide the basis for consideration of what needs to be done in an open access fishery to insure fair and equitable allocation within that sort of management regime and (2) the two sections together point to management activity that sets the basis for a situation where limited entry ought to be seriously considered and undergone.

For example, if the management regime had allowed, which it

has,85 to 86 percent of the OY in the Bering Sea bottomfish fishery to fall to one user group, the factory catcher/processors, then it could be argued that National Standard #4 had been severely breached, in that allocation had not been fair and equitable but had been carried out in such a manner that a distinct user group and corporations and individuals within it had been allowed to acquire an excessive share of the optimum yield and access to it. Now, even if it were to consider establishing a system for limiting access to the fishery, the Council would be faced with the same question which is raised by National Standard #4 with regard to the issues of present participation in the fishery, and historical fishing practices and dependence on fishery. For example, if the Council was to decide that an acceptable share in the bottomfish fishery might be expressed in terms of 10% or 20% of the OY, and these entities presently depend on a greater proportion of the OY then some mechanism will have to be devised to reduce that dependence and historical level on the fishery. A further question arises, at whose expense did they attain their present position in the fishery? Further, at whose expense will their holdings be reduced? The North Pacific Council Members?

All discussion to date has focused on the question of allocation among commercial users. The question of sport fishermen raises wider considerations.

Allocation raises two aspects of itself. One is the idea of making a specific allocation of what's available to whom, second is to provide some assurance that the allocation may be attained.

Looking at the allocative issue in the wider sense, rights of first Nationhood including Indian treaty rights are the first level of consideration. The rights of the citizens of the Nation at large is the second consideration. In this regard measuring the protein requirements on a daily basis of an average adult male against allowances expressed in daily bag limits, leads one to the conclusion that recreational rights of access are fairly well looked after and accounted for. The third priority is the commercial level.

We interpret the cries presently being heard for such things as shorebase vessel preference, full utilization - full accountability, etc., as cries reflective of a want for order and stability in the fisheries when there is an apparent lack of those qualities. Such cries are exacerbated by a perception by those presently in the fishery that their position is being eroded in some way. The most direct way this is presently happening is through the unbridled influx of new effort in the form of catcher/processors. It is most starkly contrasted by the competition between the onshore processing and the integrated at sea processing modes and fishermen caught in between them.

Through its meanderings, the NPFMC has considered, and is considering, various forms of limited access but in a way that doesn't appear to get down to timely consideration of the nuts and bolts which serious consideration of Sections 301 and 303 would require. It is, therefore, difficult to guess what such serious consideration along existing lines in the Act would lead to in terms of measures under a new conservation management regime. Because we are presently unaware of any standard or a ranking of priorities given to a defined array of access rights to common property, we have called for the development of such, both formally in our testimony (p.16) before the Senate on May 18, 1989, and informally through NOAA General Counsel. We have repeatedly asked that our catch histories, or a portion of them be recognized as a continuing basis upon which our right of access to the fishery may be preserved. We have been told by legal counsel that in the event limited access was considered catch histories would have to be considered. Yet the industry calls for various preferences to processors and characterizes them as anything but limited access, while foreigners transplant themselves into the fishery, gobble up U.S. catcher vessels catch histories under the Processor Preference and now begin to call for access limits. They will, we predict, soon ask for "their" catch histories which are "ours" to be recognized.

It is interesting to observe that whenever a sticky question arises before NOAA, they conveniently express that their policy is to bow to the advice of the Regional Council. The Regional Council, when faced with the sticky question of allocation in a situation where the needs for fish are greater than the available harvestable component, fall back on the advice of industry saying that unless the industry agrees to a limited entry system, they are unable to impose one upon the fishery. Consequently, nobody is doing anything. There is little or no management, and what there is tends to focus on the fish not the industry.

From the perspective of the commercial U.S. fishermen, it is apparent that the participation in the fishery is changing rapidly. Under the law, new catcher/processor (factory trawlers) are able to enter the fishery unrestricted, and within the 0\ take whatever has hitherto been allocated to foreigners or U.S. fishermen fishing in the joint venture mode. Because we perceive the Council and the management regime doing nothing to promote an orderly balance within the fisheries, and little likelihood of them acting in a timely fashion, we have made a number of requests. These requests are in part with a view to a better fishery for the future and in part out of concern for our own position in the future fishery.

Under a system of natural justice, where we are transiting from

an open access system to a consideration where allocation is necessary, one would expect that historical fishing practices and dependence upon the fishery would count more than a newly created dependence in the form of an investment in capacity either yet to enter the fishery or, having entered the fishery, had only been in the fishery for a short time. However this may be handled it is not clear to us. In the short term, therefore, we have requested a transitional quota to those vessels who are moving to a DAP market in a time definite. Furthermore, we propose a preference which rewards American content for access to the common property and one in which reasonable consideration be given to vessels fishing to shorebased operations. (See letter of June 8, 1989 to NPFMC)

Question #2

The key words here, we suggest, are practicable, fair, and active.

If for example, we are talking about the representation of the user groups on the council, which is likely what active participants in the fisheries are, then it is likely that there will be more user groups than positions available on the council. For example, the NPFMC. However, apportionments may be made by the Secretary "on a rotating or other basis". Subsection 302(b)(3) says that each voting member shall serve for term of three years; except that the Secretary may designate a shorter term if necessary to provide for balancing expiration to terms of office. This may suggest that terms for user groups on the council could be shorter than three years and on a different basis than one group for one position for a total of three years. In other words, one could have three different user groups, each with a one year term on the council, or other interest groups, for example conservationists who may not be actively participating in the extraction but rather be interested in conservation, could be included here as well.

All things being equal, which they are not, for example the breach of National Standard #4, it would follow that the idea of user group representation is a good one. However, if there is not enough room on the council for all the major user groups which there is not, there is likely to be attempts at discrimination between user groups when the needs exceed the available harvestable TAC. This sort of fear associated with the notion that "we oppose all forms of limited entry because supporting them may codify the position of "foreigners" in the fishery" is similar to the notion that says "we would not support apportionment of council seats based on current participation in the fishery because to do so would be to codify the position of one user group, for example factory processors and their position on the council and in the fishery long term."

Therefore, the idea that a fair apportionment of seats be rationed out to active participants is not necessarily a fair way to allocate seats on the council. By extension this would mean that 85% of the seats should fall to representatives of the at sea factory trawlers right now. Such an apportionment would fail to recognize that most of the so called Alaska factory trawlers actually originate in Seattle. Furthermore, the notion of active participants is skewed toward commercial representation presently. The present regime discounts the existence of relationships other than extractive ones. For example, the concern of a large proportion of citizens of the nation is for eating fish and conservation. They would consider themselves active participants in the fishery.

The Secretary should not be required to take a snapshot of the fishery and apportion seats relative to the proportion of active extractive fishermen in the fishery only. Although an accurate assessment of this sort of information should be available for this purpose and the purposes of fisheries management.

It is acknowledged that Section 302(b)(2)(A) speaks to the voting members of the council being "individuals who are knowledgeable and experienced with regard to the conservation and management, or recreational or commercial harvest of the fishery resources of the geographical area concerned." Ideally qualified people ought to be knowledgeable in all of these areas and the relationships between them. Perhaps in a situation where the non user group representatives, such as the State Directors and the Regional Director of NMFS are knowledgeable in all of these areas and can vote down measures sponsored by user groups which are discriminatory, then the user group approach might be acceptable. It is desirable to have voting members of the council who are knowledgeable in all these areas over a council member who is only qualified in one of the areas and whose interests revolve within a narrow sphere of interest.

In summary then, the snapshot approach should contribute towards assessing the apportionment of seats but not be the only criteria. It ought to be assessed or considered as to how the current balance was arrived at. Was it fair, was it equitable, did it measure up to the National Standards and guidelines" Further, the notion of active participants should not be so narrow as to only consider active extractive participants but extend to other considerations such as conservation and protection. Furthermore, the existence of a more qualified person in the areas of conservation, management and recreational and commercial fisheries ought to take precedence over one particular user group representative. Finally consideration of apportionment of seats "on a rotating or other basis", and for terms of less than three years deserves some consideration.

This does get back to the subquestion under #1 as to who should decide the allocation question. In essence this should be a person or a group of people who have the vision and foresight and guts to recognize a problem in management, preferably way ahead of it happening, and be prepared to stand above the parochial user interests arguments and manage the fishery in a way that balances the man/fish equation rather than the sort of person that just buries their head in the sand and says this is the American way and we will just let it boom or bust as the chips may fall. Some would advocate allocation be performed by a panel of high court judges, divorced from the fishery but with the facts before them. Catch histories and tendering the balance is another avenue.

Question #3

We agree that the fisheries of the North Pacific are evolving. But to where, in what direction?

The Act is a living instrument which shapes the environment in which conservation and management should occur. The Act itself doesn't assure this necessarily will be done partially or completely, poorly or well. It is apparent that the business of balancing the relationships between fishermen and fish in the various council regions has been done poorly or the degree of imbalance occurring elsewhere has not yet occurred, but is imminent in Northwest fisheries.

It is in the area of performing the balancing act that is fisheries management and conservation and which embodies allocation, that the State and Federal representatives on the council should be most strong and provide guidance. This includes knowledge and leadership strength in the underpinnings such as; research (stock assessment), socio-economics of the industry, the law, regulations and administrative procedures, and enforcement of and compliance with them.

A continual vibration or interaction should occur between these spheres and the goals and objectives for fisheries management plans under State and Federal fisheries policy.

Without trying to use the guidelines within the Act already it is difficult to conclude they are inadequate. It seems the Act may need a change to allow user fees to be collected for the imposition of measures such as to provide adequate observer coverage on removals of fish under the optimum yield, and the disposition of those fish for example under a policy towards full utilization.

The present calls for a split in TAC's between onshore and

offshore users embodies a recognition and fear of a situation where too much effort-capacity is entering the fishery uncontrolled and some of us already in the fishery perceive that we will be hurt and may be forced out of the fishery. Section 301(a)(4) contemplates this situation yet 85% to 86% of the OY has been allowed by management's inaction or turning a blind eye to the process of "Americanization", to fall into the hands of factory trawlers most of which originate in Washington State.

Section 303(b)(6) also provides guidance in contemplation of this situation yet the Council-industry flip-flops back and forth without ever having come to grips with the need to seriously devise a limited entry regime. In fact to date it has pushed away serious consideration of such a regime. Perhaps these are signs that a critical mass is developing which will inevitably result in a council decision to do something too late. Perhaps the decision not to act is out of fear that to do so is to put the fishery and the industry more in the hands of the Council and the Federal Government who may be perceived likely to create a bigger shambles under limited access vis a vis open access.

Achieving a defined optimum yield of fish may be done in a least or most economic way. But allowing the present trend in the bottomfish fisheries towards over-capitalization, bankruptcy, with the attendant socio-economic disruption, could hardly be termed in the National interest, even if the OY is achieved in terms of a harvestable amount being taken.

The adequacy of the Act can only be measured in terms of allowing the attainment of visions and aspirations of the fisheries it conserves and manages. When a vision, or the sum of visions for a regime is settled upon and attempted, it will become apparent if the Act is adequate to allow it or not. However, sight ought not be lost of the fact that the renewable resource is finite and the property of Americans, not just American fishermen now in the fisheries. Some would argue the purpose of the MFCMA was to "Americanize" the fishery and has been achieved. Others would advocate the immediate launching of a regime as contemplated in Section 303, if our fisheries are to remain viable.

The vacillations of strong individual fishermen as they attempt to carve a short term niche for themselves in the fishery and experience doubts about open vis a vis limited access, should not be allowed to render councils and the management process inert, while the fishery which doesn't belong to them is destroyed by them. If the Act says Councils cannot act in a particular way unless the industry says it's OK, then that part of the Act may have to be changed if U.S. fisheries are going down the drain because of it.

This is where one would expect the experience of NOAA, the States, and the Regional commissions to lend some wisdom and understanding gained throughout fishery history, to the present process, in a leadership role by them.

It is true that most joint venture fishermen will shortly be phased out under the implementation of the processor preference in combination with the effect of the implementation of other laws. It is also true that unless those fishermen find a DAP market niche quickly they run a real risk of being disenfranchised by new integrated catcher processing efforts entering the fishery under the uncontrolled open access regime. That new effort under the law is able to gobble up the catch history of JVP U.S. harvesters under that mode. Some U.S. harvesters have found a shoreside niche and have undergone the installation of refrigerated sea-water systems to enable them to service that market. Others are involved in large processing at sea operations. However, for those who have a shoreside market there is a very real concern about the fragility of that relationship vis a vis the mobility and rapaciousness of the factory trawler user group. The number of U.S. fishermen without a shoreside market who want one heightens the concern of those with a market.

Should they be able to enter already fully utilized inshore fisheries?

In the best of all possible worlds they should not be able to enter such fisheries. The bottom line of the National interest on one hand ought to be the assurance that the biological integrity of a stocks ability to produce an optimum yield is essential to there being able to be an industry based on it. Therefore, the integrity of the stock upon which the industry is based should be uppermost in the minds of management to preserve it for the National interest. On the other hand on the human side, management's goal ought to be the creation of an environment which allows industry to create new capital and with regard to allocation to insure that the new capital is distributed in an optimum way among the participants and the nation. It should certainly be uppermost in management's mind to prevent bankruptcies and the dislocation that those cause to the greatest degree. Therefore implicit in allocation is some degree of assurance that the allocative mechanism works. However if the fragile nature of already fully utilized inshore fisheries has not been recognized and entry not limited to it under the law, then management in those areas is falling short of its duty. And under the law if there is nothing to prevent it then it is understandable that those vessels being squeezed out in one area will try to access fish or a fishery in another. However if the participants in a fishery have been in it for a long time and

have a long term commitment to and dependence on that fishery it is certainly in their interest and the national interest not to allow a fully utilized fishery to be breached by an overflow of effort from another fishery and for the fishery, including the fish stocks and participants in it to have their position destroyed. It is for precisely this reason that fishermen in the groundfish fisheries have been pointing to the fact that there is presently an uncontrolled entry of new effort into those fisheries that will not only create an over-capitalized fishery and probably an over-fished situation, but it will also destroy the position of those who have been in the fishery for considerable time. Included among those with a long commitment to and dependence on the fishery are the U.S. harvesters who have been fishing in a joint venture mode. It was not contemplated by the Act or by Congress that these fishermen would necessarily have their position in this fishery disenfranchised. And under any system of natural justice it is beyond our comprehension to envisage the present system which allows this to happen.

With regard to the operation and effect of other legislation affecting the position of these joint venture fishermen we are referring specifically to the Anti-Reflagging Act and provisions to it and the implementation of those provisions through the various government departments. It would have been one thing if in 1976 or 1979 conditions governing that access to capacity to catch and process bottomfish was held constant for all likely participants. However the Anti-Reflagging Act removed reflagged foreign processors as a market for U.S. catcher vessels. This accelerated the entry of integrated factory trawler capacity into the fishery and a replacement of U.S. catcher efforts by so called U.S. catcher/processor effort. As raised before, the operation of the U.S. Coast Guard, the Inland Revenue Service, the Customs Department and Immigrations Department, and Justice Department, all have a bearing on the rate at which the entry of this new effort has occurred and the effect of it on the U.S. harvesters who have fished in a joint venture mode.

Should they be forced to go out of business?

Again, in the best of all possible worlds we are talking about allocative provisions and some assurance that that allocation works in the way in which it was intended. In this regard it is clear that the capacity and intent provisions of the Act and the way they have been implemented fall far short of the ideal. This is especially so at the margin between the total phase in of DAP capacity. These vessels should certainly not be forced to go out of business if those forcing them out of the fishery have not acted legally under the law. On the other hand there ought not to be a 100% assurance that such vessels survive either.

The question what is the national interest?

In essence one bottomline of the national interest ought to be to preserve the state of fish stocks in a manner which ensures their renewability over the long term and the short term. Added to this is the business of fisheries management which is to influence the balance of the human effort and capacity against the harvestable component of the resource in question. It is quite plain that the idea of open access is a ridiculous one unless you want to set up a fishery for an over-capitalized declining catch per unit effort situation. This is especially true for a high volume low value fishery such as the Groundfish of the Bering Sea. That is a situation which also brings the fish stock closer to an over-fishing situation which is not in the national interest.

Section 303 of the Act contemplates the need for allocation decisions to be made between fishermen competing for a scarce finite fish resource. Perhaps it is time to force Councils to use these provisions.

As would be expected in a system which recognizes natural justice and due process, section 303 of the Act contemplates the need for limited access and in that case immediately points to catch histories, commitment to and dependence upon the fishery as a basis for allocation of access rights into the fishery.

However, what has happened and is happening is rather disturbing and is graphically apparent at both the margin of the so-called "Americanization" of the fishery, and the imbalance point in the fishery where human harvest capacity exceeds available fish. One would expect these situations to trigger timely and serious consideration of measures contemplated by Section 303. However one cannot call such consideration serious in the face of Council motions "never again to consider the issue of limit entry."

Recognition of the imbalance is illustrated by the calls for onshore/offshore preferences which are being characterized as <u>not</u> a form of limit entry! Splitting the OY and not limiting effort merely creates chaos in parallel.

The political decision of Congress to create a Processor Preference in 1978 set up a capacity and intent test for its implementation. We have seen how double and multiple species dipping by processors, lack of real time reporting, inflated capacity requests, and how lack of accountability behind the veil of confidentiality effect JVP U.S. harvesters at the margin of the Americanization process.

Combine this with the influx of effort capacity, which is reportedly wasting up to half of its catch, enabled by various laws and their interpretation by various government departments,

and we have joint ventures by another name gobbling up the catch histories of U.S. fishermen and pushing them out of the fishery.

What we have here is a processor's dream. To have three times the catching capacity needed to choose from. But shorebased processors are not even required to choose. They may build their own vessels, vertically integrate catching and processing, do away with any arms length transactions between harvesting and processing just like factory processors. Thus forcing the traditional U.S. fisherman into extinction.

We heard testimony before the June NPFMC that some shorebased processors are demanding a share, all or part, of the catcher vessel as a condition for attaining a shorebased delivery market. Yet others testified as to their intention to build an entirely new shorebased delivery fleet thus precluding existing vessels from such a market.

The Processor Preference hasn't exactly been ideal for fishermen. Now all the calls for onshore/offshore splits are being couched in terms of processors <u>not</u> fishermen. The traditional U.S. fisherman is fast becoming an endangered species. Yet the first step in creating wealth in a fishery is made by fishermen who in catching fish pass it from common into private property.

According to NOAA General Counsel it is legal for the Council to split the OY and allocate it to different user groups and so long as full participation is allowed this doesn't constitute limited entry! Furthermore, a fisherman cannot be compelled to land his fish to any one port or plant. There may not be compulsion on the fisherman regarding the disposition of his catch.

We would suggest the sooner all or part of the catch histories of U.S. fishermen are recognized the better it will be for them, the fishery, and the nation.

Surely a nation can rest easier knowing its fishermen are not being disenfranchised by unfair laws and their implementation.

Surely a nation could accept that a processor leased or bought a fisherman's right to fish in a willing buyer, willing seller situation rather than usurping that right or its potential through the sort of coercion we hear is going on.

Surely it sits better that a processor leased or bought the catching right of a fisherman then built new catching capacity to fish it rather than leap-frogging those rights as appears doable under the present regime.

A system which recognizes catch histories would allow fishermen to deliver to his market of choice, be it on or offshore. Such a

system would allow such harvest rights to be fished to, leased or purchased by on/offshore processors. Such catch histories could be fished with existing capacity or umbrellaed by new replacement capacity.

We have in the past advocated a moratorium on new vessel capacity entry into the fishery for a period of two years. This would buy time to settle on a new regime. We have requested that catch histories be given high priority as a basis of access right.

A GAO investigation into the setting of the OY, implementing of the Processor Preference, and the foreign content of the fishery would be welcome by us. As would the use of the results be welcomed to enable an allocation preference be given to American Content.

Recognizing that our position in the fishery is tenuous and eroding by the day, and recognizing most of us have a DAP market which doesn't kick in until late next year or after, and that we must survive in the meantime, we request a quota be earmarked for such vessels to enable their survival in transition from JVP to DAP. Based upon our average catch histories over 1987,88 the per vessel quota would be in the order of 25,000 mt of mainly pollock but some yellowfin sole and cod. We would need special interim dispensation to allow for the processing of such fish. We suggest business plans showing the basis of the transition be required.

Furthermore we have proposed, for your consideration, an allocative system of preference which recognizes and rewards American content.

With regard to what is NOAA's role in guiding the evolution of fisheries?

NOAA's role should be around the central pivot of balancing the fish stock side to the human side. And providing the research necessary for managers to be informed of the state of both of these resources, the human resource and the fish resource and their respective environments. On one hand in developing this information NOAA ought to be looking closely at what is being done in other parts of the world and providing this information to the industry at large so that it may enter into the management conservation process. Also it ought to be providing forums in which exchange of views can occur in a much more free way than the actual management council process. For example, if as a national policy it were to be adopted (1) full accountability of withdrawals of fish under the OY, and (2) towards full utilization; there is a plethora of information that could be utilized in the attainment of these policies if it were put before the industry and the wider fishery family.

STATEMENT OF R. BARRY FISHER, PRESIDENT, YANKEE FISHERIES

Mr. FISHER. Thank you, Mr. Chairman. My name is Barry Fisher. I own three trawlers that fish in Alaska on both joint venture mode and also some shoreside deliveries. Partial owner of a small factory trawler vessel.

I'd like to tell you where the Association stands vis-a-vis management. We want it in the regions and we want sufficient budget or moneys provided to gather information which is decilining in quality and quantity year by year. The Council, in our opinion, has not shown enough concern about this.

I would also fill in a little bit on the other side of what Mr. Baker said. You know, we passed the 200-mile bill to get rid of huge factory trawlers which come in and pulsed our resources and leave and leave nothing but crumbs for the local towns form the farthest extent of the Aleutian Islands back to below the California/Oregon border.

We believe in this regional management. We've done our best to live under it and yet paradoxically I requested the government audit and also my association went to suit against the Secretary of Commerce and it's not a few thousand tons or whether the captian's right. Our complaint is the administration by NOAA and by N.F.S., which is the third mandate that I think you people had, that the government, our own bodies, would be—give us a level playing field and give us the game rules.

NOAA and NMFS have failed miserably in that task. They've allowed the Council to do what the Council wanted to do. They agree with Mr. Baker on nominations to the Council, it seems. However, their allocations indicate that their failure to allocate fish has caused an awful lot of anguish, an awful lot of grief.

I'll give you one specific item on this discrimination. The trawlers are the only gear types in Alaska that are discriminated against in terms of by-catch. There's by-catching in every other fishery, yet we're the only ones. You don't believe this, go look at Amendment 12(a).

We will lose, because of the NOAA and NMFS failure to allocate fish properly, the lost wages to the crews—we had to stop in June in Alaska—was still, depending on how you counted it, seventy to a hundred and ten thousand tons left on the table. We had to send our processors home. Those were American domestic processors that were not going to take forty to sixty thousand tons while our boats were still there.

We checked, our consultant, Steve Hughes, pleaded with the appropriate fishery officer in Juneau, release that fish, so-and-so isn't going to use it. He refused. Lost wages to crews in just our outfits, Soviets and American, 45 million dollars in wages. Income loss to the boats, five to six million dollars. Income loss for Marine Resources Company, Incorporated, somewhere around 20 million dollars, because of a failure of the NOAA and NMFS officer.

Furthermore, but now I'm quite sure there'll be some kind of temproary allocation and incidentally over the past five years D.A.P. has failed to meet its tariffs on the tonnage it requests by

an average of 30 percent, a loss to an awful lot of Mr. Baker's boats.

We are not going to that fishery to be relased on September 1st, but we're going into that fishery at the worst possible time of year, in weather, as far as small boats. They won't have an ice pack to run into for shelter. And I'll tell you, I'll state as strong as I can possibly state it, it any of my kids get lost or any vessels are lost, I'm going after two NMFS officials under the law and prosecute them to the fullest.

There's a line from Shakespeare that once said about fishermen, "Hark ye well, ye merchants. The price for yon fish is paid in men's blood." That's what you're going to be faced with this fall, and that's a problem not only in our fishery but for several of them, even if you don't recognize it.

What we want, the law says the best information available. Six, five to six years of my data is laying in cardboard boxes over at the fisheries, NMFS and Fisheries Research Center. We haven't the money to analyze the data. The data needs and information needs I labored for two and a half years to try and talk the other companies, all of us into one/quarter of a cent per income, per dollar of income for a nonprofit foundation to assist the Council. They failed to do it.

There's three sources of funds that either come from you guys or they demand that user fees be put on all of us, heavy enough so we can get the research done. In Oregon and Washington I agree completely we need a seat for Oregon and a seat for Washington on the Council from the industry, not state agent people.

I'll wind up with this comment: Because of NMFS's failure to prosecute their role under the law we are shoveling overboard thousands of tons of fish dead every year, and you can't blame the men.

I'll let it drop there. I plead with you. Make NOAA become the guardian under the law as you intended when it was passed. I think I'll stop there.

Senator ADAMS. Thank you.

Mr. FISHER. Oh, wait, there is one thing that might interest you guys. The Economic Development Department of the Oregon—for the State of Oregon has come to me and offered initially $350,000 to complete market feasibility studies and programs to market white, as well as fillets. In all conscience—and another $16,000 is available. In all conscience, I don't think that I could accept that because you're going to see D.A.P. and American factory trawlers pulsing everything. A lot of pulsing. Go to cod, pulse it. Go to sole, pulse it. They're using all the by-catch. Incidental catches we get. You go down to Oregon and Washington, pulse that, too.

It's ironic. We passed that law to get rid of distant-water trawlers. It's up to you guy and NMFS as to how this thing is going to be fought. Recognize and multiply it in the shoreside community, and it's 2.9 to 1. The factory trawlers, it's less than that pulsing.

Thank you.

Senator ADAMS. Thank you very much, Mr. Fisher, for an excellent statement.

[The statement follows:]

Midwater Trawlers Cooperative
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WRITTEN TESTIMONY OF R. BARRY FISHER

SUBMITTED TO THE SENATE COMMERCE COMMITTEE

REGIONAL HEARING

JULY 7, 1989

My name is Barry Fisher. I currently own three trawlers which fish in Alaska and have partial ownership of a small factory trawler. I am also President and Chairman of the Board of Midwater Trawlers Cooperative (a non-profit association), which represents 35 vessels primarily from the State of Oregon, but we also have in our membership several Washington and Alaskan Based trawlers.

I want to emphasize at the start of these comments that Midwater Trawlers Cooperative believes unanimously in regional management of the renewable marine resources in the region, as opposed to in Washington, D.C. Furthermore, we agree emphatically that this regional management should be on a "level playing field" and should use the National Standards of the FCMA of 1976 for the "game rules".

My Association asked for a GOA audit of the North Pacific Fishery Management Council and since GAO can do nothing but recommend, we also have initiated suit against the Secretary of Commerce. I would like to highlight some of the actual actions which brought about the conviction which has led us to this position. We believe that the

NPFMC has recommended and NOAA has allowed and condoned disregard of the best scientific information and discrimination to exist between various fleet elements.

We believe gear-type bottom and midwater trawlers are being singled out as objects of discrimination. One needs only to look at Amendment 12(a) which has been sent on by the Council to the Secretary for approval. Only trawlers and trawler by-catches are covered in Amendment 12(a). We believe that the Council again has practiced discrimination by having by-catch allocations or allotments against the trawlers and no other fishery gear type vessels even though there is extensive scientific evidence that the by-catch problem occurs in all fisheries and is often most severe in non-trawl fisheries.

I would point out to you that it was this Association, MTC, which initiated a concise and well detailed plan to cut both the rate and the volume of prohibited species incidental catch by trawlers. We have been quite successful in doing this, but no other gear-type has had to live with these kinds of discriminatory efforts - even when it is obviously necessary. For example, the incidental catch of halibut by cod longliners is by far the highest rate of by-catch in any fishery for groundfish. The by-catch rate of halibut in king and Tanner crab pots also exceed that of trawlers (numbers per mt target species). Also, it is well known and can be proven that longliners leave more lost or abandoned gear on the bottom than any

gear-type. I am not suggesting that these fisheries are the bad guys - we are all facing the same problem, but only one group appears to bear the cross.

We believe the Council has also been discriminatory in the methods which it uses to ensure that the Processor Preference Amendments are followed and that there be fair and equitable distribution of allocations; specifically, the NPFMC/NOAA has consistently taken processor or factory trawler requests under Domestic Allocation Preference (DAP) as the gospel when, in fact, over the last few years, these two groups have consistently failed to take their annual allocations. Both NOAA and the Council have not only condoned it, but when reallocation is possible to a joint venture, they have refused to reallocate in a timely fashion so that the joint ventures could remain on the grounds.

The ultimate responsibility for reallocation rests with the Regional Director's office of NMFS in Juneau, but that office has failed to reallocate on a timely basis. This year, for example, it was well known that one large domestic processor ceased operations due to financial problems and would not take the 40,000 tons of soles and flounders which they had rightly requested under DAP. MTC's Technical Advisor, Mr. Steve Hughes, made many attempts to get the appropriate NMFS official to call that company and to ascertain whether the fish would be used. If this had occurred, NMFS could have released the tonnage in a timely fashion while our processors

were on the grounds. There was a 241,000 mt Yellowfin Sole (YFS) Total Allowable Catch (TAC) allocated for 1989. Of this amount, 36,150 mt was held in reserve. DAP was awarded 60,000 mt and Joint Venture Preference (JVP) was allocated 144,850 mt.

There was not even sufficient tonnage of YFS allocated for "by-catch" in what is called the "other flatfish" (O-Flat) fishery, so that in addition to a premature shutdown of the YFS, the "O-Flat fishery was shut off. The Soviet processors left when the original allocation was completed and, because they are a big corporation in the Soviet Union, they could not arbitrarily turn around and say "We'll reserve these ships for you on the basis of the fish that will be available for reallocation under the Processor Preference Amendments". The vessels went home. It is my understanding the Council will recommend the release of the quota sometime in September. This single action has cost the joint venture company, owned 50 percent by Americans and 50 percent by the Soviet Ministry of Fisheries, several million dollars in income. The income of the American catchers have been cut by some $5-6 million. The loss of wages and salaries of 2,500 American and Soviet crewmen are considerable, we estimate some $4-5 million. It should be pointed out and emphasized that when we recommence this fishery, assuming a September release of all of the "surplus" tonnage, we will be coming into one of the worst weather patterns of the year. In all probability, we will have fewer processing ships. Our efficiency will be cut greatly because of the bad weather, and we run

considerable added risk of loss of men and boats.

If any of my "kids" are lost or vessels are list in an effort which could have been prevented, I am very much afraid that I will hold NOAA and NMFS officials personally responsible under the law. I will make every effort to ensure that the Secretary of Commerce known what happened. I would then ask the Senate Commerce Committee to investigate this matter and others for culpability.

Even if those fish are reallocated as described, we question whether there have been adequate reserves set aside of species of other flounders, cod and pollock, so that we could prosecute this fall fishery. As stated above, there are still 22,000 tons of other flatfish which can't be released because there are inadequate by-catch allowances of other flounder and sole species. For the past four years, there have been considerable losses of fish and income because of NMFS/NOAA's lack of stewardship. Their allocation system has resulted in huge amounts of fish shoveled overboard, dead.

I will close this area of comment by telling you that DAP projections to the Council, as to DAP needs, have never been attained in any given year. DAP actual utilization of fish needs have been some 30 percent under their projections over the last few years.

If the minutes of the Advisory Panel are reviewed over the past four

or five years, you will discover that Alaskan members of the AP have consistently thrown aside the biologists' recommendations as to maximum and minimum tonnage quotas for each specie of groundfish and have made allocation recommendations which are not in line with the data provided. It is indeed ironic that the people who are most actively involved in Americanizing the catch are the people who are most often voted against.

I believe the Council's appointments to the AP are another form of discrimination against trawlers. Alaskans fishing other gear-types have been consistently "anti-trawl" in their votes, with very little data to support anything. In the North Pacific EEZ, the appointments to the AP in no way, shape or fashion, have reflected representation based on the importance of a given fishery. I would point out again that approximately 80 percent of all the product which has been taken in years prior to 1989 and in 1989 again, was taken by out-of-state boats, residents of Washington and Oregon. This disproportionate representation is also true with the composition of the Council as it stands. I would flatly recommend that the States of Oregon and Washington be given one additional member from the industry to make the Council more representative. The Council should, at a minimum, replace salmon fishermen on the AP (which is well managed by ADF&G), and the disproportionate representation should be corrected.

This recommended representation is also necessary because of Alaskan

politicians' interference in demanding that Alaskan members' votes must agree with the desires of the politicians. For example, Governor Cowper has demanded of Alaskan fishing industry members that the Director of the Alaska Department of Fish and Game (who is a very able man) be supported for the Chairmanship of the NPFMC. In our opinion, this would have placed the Director in a direct conflict of interest position.

The recent hearings convened by Senator Breaux, but obviously organized by Senator Stevens of Alaska, in Washington, D.C. resulted in only four groups being invited to testify. Major sectors of the industry were ignored and many were not even informed of the hearings. These sessions were supposed to constitute "the hearings" for "Reauthorization" of the MFCMA.

Other management failures under NOAA's management have been their inability to get observers on fishing vessels other than the joint venture trawlers, and some very small observer coverage of American factory trawlers. The process of getting observer coverage on other American boats in other fisheries (which have no by-catch requirements imposed), to me is not only discriminatory, but has also taught a lot of the fishermen that observer data might well be dangerous because of "look at what's happened to the JV boats". Our own data, carefully collected, which showed real progress towards minimizing the incidental catch of prohibited species, has been used against us. The by-catch allotments have constantly been lowered by

our own successful practices and yet, year by year, reductions in incidental species by-catch have been forced upon us by other gear-types with little biological data to support the reductions.

Finally, NOAA's adoption of Council recommendations has made the situation worse by an inability to reward those boats and those fisheries who have fished "clean" (i.e., with very little incidental species by-catch), and an inability to punish the boats whose incidental by-catch has been on a magnitude of six to ten times the by-catch of the "clean fishermen". To make matters worse, the recommendation of the By-Catch Committee of the NPFMC turned into an extremely costly amount of time and money, and when the recommendations to the Council came to the floor, the Council voted them down and even the Council member who was the Committee Chairman voted against his own recommendations.

In the interest of brevity, the rest of this essay will not dwell on points with copious data. Rather, I would like to make a mid-point statement that our membership feels that NOAA has not carried out the Congressional mandate as described in the FCMA of 1976. That mandate was to manage the renewable marine resources for the benefit of the people of the United States of America; and secondly, to involve American fishermen in increasing the harvest of under-exploited and unexploited marine fisheries. Thirdly, NOAA has not been the Government's guardian to ensure that the mandate of Congress is being carried out. These feelings caused us to demand a

GAO audit (currently in progress) and a suit against the Secretary of Commerce.

I would go so far as to say that senior NMFS officials do not understand the trawling practices and the trawl fishery. Examples of this ignorance: in a mixed species assemblage of fish, NMFS has decided that more than 20 percent of any given species in this mixed assemblage, constituted targeting on that given specie. We point out to them that bottom trawling catches often times will vary tow to town, and that adherence to this rule of the 20 percent as a target species most often develops into a waste of fish and/or the shutdown of a fishery. We have tried many, many times to convince NMFS that their practices are ruinous and we have run into behavior which I would call obstinate and defensive on their part. For several years, some of these senior people have been invited to come out and spend some time on a trawler. This invitation has never been accepted. One ludicrous example of this 20 percent rule. One of the boats in my Association was fined $375,000 in one week because of the 20 percent rule and that 20 percent that caused the fines was pollock, the most prolific fish we have in the Bering Sea. The fines were rescinded in less than a week because of industry outrage. I would state a this point, also, that numbers of the NMFS scientists are amongst the best men that I have ever met in carrying out their obligations. But the leadership in the NMFS Regional Office in NOAA will, hopefully, improve and above all, acquaint itself with how a fishery is conducted on the ocean.

Suffice to say that in the last few years we have begun to waste hundreds and thousands of fish for several reasons which are the result of poor management decisions. Lack of observers, non retention of prohibited species because of insufficient by-catch quota, etc. Our own joint ventures have had to close down twice because of NMFS' failure to set aside sufficient by-catches, even when the by-catch species did exist in abundance and there was biological data given by the Scientific and Statistical Committee (SSC) that supported larger amounts of fish available for both direct allocation and by-catch allocation.

It is absolutely imperative that observer coverage aboard other American boats in the other fisheries begin as soon as possible. I believe the Council and NOAA have been negligent in simply not demanding the observers be put aboard, as a condition of going fishing. The joint venture vessels have always paid the cost of the observers (and it has been almost 100 percent coverage) out of the price paid for our fish.

I labored for 2-1/2 years when I was an AP member, trying to get a non-profit research foundation started in the NPFMC region which would have provided funds for observer coverage and needed management and research needs. I personally solved the problem of liability insurance coverage for observers, which had been a major obstacle. The non-profit foundation would have provided adequate funds for not only observer coverage, but also the attainment of

fishery management data upon which we could project OY's, ABC's, TAC's, etc. What is involved here is a need for money. The foundation approach which was espoused by me and some NPFMC staff members would have been one-quarter of one cent of each dollar of income. The industry did not support this.

I now firmly believe that in order to protect the American people's resources, funds for more management information and analysis efforts have got to come from one of three sources, and these are:

1. Senate and Congressional allocation of more monies to the regional councils for all the purposes stated above.

2. The imposition of government user fees to be placed upon fishermen to guarantee funds for the requisite data and management information. If user fees are to become the vehicle, the Government of the United States should, in my opinion, dedicate the user fees to support management need.

3. An easier mechanism and one which would ensure cooperation by fishermen, would be to resurrect, at this time, the idea of the non-profit fishery foundation.

I believe that the third is the best way to go. A nominal fee of one-quarter of one cent per dollar of income is very feasible and would provide not only enough money for observers and management

information, but would allow complementary research efforts which are needed.

As an American fisherman who has been around the industry for some 40-odd years, I am personally ashamed of our industry refusing to support the necessary and wise information and research programs. I emphasize again - we are fishing on the patrimony of the United States of America and, apparently, we won't do what is necessary to support these renewable marine resources.

Another point to be addressed is somewhat ironic. Nations all over the world passed 200-mile bills to prevent "distant water factory fleets" from moving in on territorial fishing grounds, "pulsing" individual fisheries with great effort and then departing, leaving local coastal fishermen with the crumbs from the table. This is happening right now in Alaska. It has happened off the coasts of Oregon, northern California and Washington. In this area, I repeat again, the NPFMC and NOAA have been reactive; it has not provided leadership. My Association firmly believes that there should be preferential priorities for delivery of American fish by American boats and delivered to American shoreplants on our coast. I repeat, shoreside deliveries by American boats, in the traditional processor/catcher boat relationship.

I would repeat again, we do not believe in community quotas or development quotas or individual processor plant quotas, but we do

point out that work is needed right now in that we will probably have the capacity by the end of 1989 in American factory trawlers to harvest all the OY's everywhere in the Northwest Pacific and Alaskan EEZ's.

In summary, the members of Midwater Trawlers Cooperative believe wholeheartedly that little is needed in terms of new legislation. What is needed is leadership from the Federal Government; the Senate and Congress to ensure that the FCMA of 1976 and the Processor Preference Amendment of 1977 are being followed under the National Standards. Secondly, we believe that NOAA must be forced to be the Government's watchdog or guardian and that there be reviews on a timely fashion to assure that both of these tasks are carried out by the Councils and by NMFS and NOAA.

The National Standards are of critical importance; they should not be changed, dropped or modified. The councils and NMFS Regional offices and labs need more money. If the requisite funds are not to come from the Government of the United States, then by God, slap a good user fee on us so that the Councils, the states and the NMFS Regional offices can do what they are supposed to do under the Act. Finally, we catcher boats in the Midwater Trawlers Cooperative who pioneered the joint ventures in Alaska and in the lower-48, believe that priority allocations should be given to shoreside delivery of American-caught fish to American plants, and I would call upon the American processors to work with us towards this goal.

STATEMENT OF TED A. SMITS, EXECUTIVE DIRECTOR, NORTH PACIFIC FISHING VESSEL OWNERS' ASSOCIATION

Mr. SMITS. Thank you, Mr. Chairman and members of the Committee.

For the record, my name is Ted Smits. I'm the Executive Director of the North Pacific Fishing Vessel Owners' Association. Our members are engaged in fixed gear and long-line and trawl fisheries the world over. Their efforts are specifically concentrated along the coasts of Washington, Oregon, California and Alaska.

Our testimony today will address the needs that we see for certain changes in the FCMA without detracting from what we consider the excellence of the Act and the basic management and conservation structure it provides. For that reason, we will concentrate in our comments on the national standards, the Regional Management Councils and the data collection programs.

We consider the national standards inviolate and a reflection of the wisdom of the originators of the Act. The seven described standards have in many ways for our industry taken on the significance of the Ten Commandments. Those standards must not be changed in their protection of the resource, the industry, and the individual fisherman.

The Secretary of Commerce in releasing his or her advisory guidelines based on these standards must carefully guard against any erosion of the standards or misapplication of them to all of us.

On the Councils, we consider the Councils the basic workable area of the Act; without the Councils the Act would fail and we would really not be in existence. We have one or two small problems with the North Pacific Council I'd like to mention here.

The Act declares that the North Pacific Council must consist of the states of Alaska, Washington and Oregon and yet mandates that the voting structure shall consist of five Alaskans and two Washingtonians. This unusual and exceptional appointment stipulation conflicts with the FCMA Title III statement that requires that each Council shall reflect the expertise and the interest of its constituent states in the area over which such Council has the authority, and also that the Secretary shall ensure a fair apportionment of the active participants involved in the fisheries under the Council jurisdiction.

Additionally, the North Pacific Council structure specified in the Act logically leads to management decisions that conflict with the FCMA Standard No. 4 which requires that conservation and management measures shall not discriminate between the residents of the different states.

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Additionally, the North Pacific Council structure specified in the Act logically leads to management decisions that conflict with the FCMA Standard No. 4 which requires that conservation and management measures shall not discriminate between the residents of the different states.

This disproportionate representation of the Washington and Oregon industry becomes even more illogical in the light of actual involvement in the fishery, which clearly shows that in capital investment, in employment of personnel, in level of harvest and in economic production, industry participants domiciled in Washington and Oregon account for anywhere from 75 to 85 percent of the fisheries that fall under the auspices of the North Pacific Council.

As a specified number that we would recommend, rather than recommending restructuring of the Council along that 80/20 or 75/25 percent, we suggest that maybe we should have equal number of representatives from Washington, Oregon and Alaska, all industry representatives on the North Pacific Council.

As a specific number, we would suggest three from each one of the states, because by doing it that way the voting number membership would not exceed those of the Pacific Council, the Western Pacific Council and the South Atlantic Council.

On the issue of voting member qualifications, the FCMA requires that they are knowledgeable and experienced with regard to the conservation and management issues or the recreational or commercial harvest, and that the Secretary is responsible to ensure that persons dependent for their livelihood upon the fisheries are fairly represented as voting members of the Councils.

These stipulations should have resulted in the appointment of well-qualified individuals, and we wish to commend the committee and Congress for the clarity and specificity of that language.

However, too frequently in the past state nominations have been offered and secretarial appointments have been made more on the basis of political preference than on the basis of serious analysis of the candidates' qualifications.

Additionally, voting members, once appointed, should not be permitted to remain on the Council once their professional industry affiliation changes from one organization to another or, in the case of independent industry people, once their significant source or sources of income switch or switches from one industry segment to another.

We respectfully request the committee to ask the Secretary to diligently enforce the Title III qualification requirements and to also clarify the disclosure instructions.

Fishery Management Plans/Data Collection Programs. Title III of the Act requires that Fishery Management Plans (FMP) shall ". . . contain conservation and management measures . . ." and

assess and specify ". . . the maximum sustainable yield and optimum yield from the fishery. . ."

Obviously, these requirements can not be met unless basic scientific data such as stock levels, by-catch rates and other pertinent information can be properly collected. Proven methods of data collection are through on-board observer programs and Log Book requirements. Title III recognizes the need for such programs as determined by the Councils, but leaves the Secretary to determine whether or not such programs are justified by need.

We strongly support scientific collection programs but caution that they can work only if:

(1) They are applied equally to all segments partcipating in the industry;

(2) They are made an obligatory condition for meeting fishing permit or license requirements;

(3) They do not exceed in application that level which would result in statistically viable, usable, or reliable data; and

(4) They are funded and managed by the federal Government.

Much has been reported lately about the federal government's inability, caused by budget constraints, to fully fund observer programs. We suggest the following two alternatives:

(a) Permit harvesters and harvester/processors to retain specified by-catch or prohibited catch species and to sell these resources on the open market. Transfer the resulting sales receipts to a resource fund controlled by a Board of Directors representing the National Marine Fisheries Service, the North Pacific Council, the participating states and industry at large. Utilize the Resource Fund to augment the short-fall in federal funding of observer programs, controlled by the Resource Fund Board of Directors.

(b) Duplicating the same Resource Fund Board of Directors Structure as delineated in (a) above, increase the fees for licenses or permits to cover observer program cost shortfalls.

(c) In either funding by resource sales or by license or permit increases, industry must be reassured that monies collected for North Pacific Council observer or data collection programs will remain in and under the joint industry/Council/government control of the region.

We respectfully urge the Committee to amend the MFCMA to institute these recommendations.

Mr. Chairman and members of the Committee, this concludes my presentation; thank you for your attention during this hearing and for your continued support of our industry.

Senator ADAMS. Thank you very much.

STATEMENT OF KONRAD URI, PRESIDENT, K FISHERIES

Mr. URI. Mr. Chairman, members of the Senate Committee on Commerce, Science and Transportation, my name is Konrad Uri, and I'm the president of K Fisheries.

First let me thank you for coming to Seattle and allowing members of the industry to testify before this committee. I have been a fisherman for 44 years and have been involved in salmon, halibut, crab and trawl fisheries, and have worked on large and small vessels. I am here today representing The Highliners Association.

Our association, Mr. Chairman, does not represent any specific sector of the industry or special interest group, but was conceived to promote the overall welfare of the U.S. fishing industry. All our members were strong supporters of the FCMA when it was passed in 1976 and all of them remain convinced that the current federal regional management process holds the greatest promise for effective management of our fishing resources.

I believe all of you are aware of the tremendous gains which U.S. fishermen have made in developing the fishing resources off our country and the displacement of foreign fishing activities. Much of this has occurred in the past decade, thanks to the FCMA. The economic contribution of this growth has been significant. The growth of the whitefish industry has generated new jobs in fishing and allied businesses and its overall value is well over two billion dollars at the processor level.

The gains, however, have not been achieved without pain and a number of problems have arisen which need the attention of Congress. The fast growth of both at-sea and shoreside processing and competing gear segments have led to squabbles over resource allocation, by-catch problems and the need for adequate scientific and statistical documentation of fisheries. The rapid capitalization, and in some instances over-capitalization, of the industry has set the stage for major intergear and regional rivalry and conflicts.

Mr. Chairman, our group recognizes that as foreign fishing has been phased out of the U.S. E.E.Z. a great deal of information gathered by U.S. observers is no longer available. This has left a void in the information base needed for management.

The Highliners Association has, since 1987, supported a broad-based vessel observer program for all high seas vessels operating in the E.E.Z. Our organization joined with marine mammal environmental groups to support such a program.

Mr. Chairman, the by-catch problem has been addressed by the North Pacific Fisheries Management Council, but regulations recommended by the Council and adopted by NOAA have been crafted to deal only with the trawl fisheries. This seems peculiar in that the current scientific data available to the Council and NOAA demonstrate that by-catch is a major problem for most high seas fishing operations.

The current conflict of shoreside versus at-sea processing is a direct outgrowth of the overcapitalization that has occurred or is perceived to have occurred in the Alaska groundfisheries. Although many of the groups on both sides of this conflict have opposed limited entry, there is now an attempt by some elements of the industry to reprioritize the fishery to provide an advantage of one group over another.

If overcapitalization is considered an undesirable element of the fishing industry, and if safety and biological waste problems are an outgrowth of overcapitalization, where was NOAA while we managed to get ourselves into this mess?

If one group of U.S. fishermen and processors is to be favored over another, why wasn't this issue addressed prior to the massive investments by at-sea processors?

As I read the Act, Mr. Chairman, it is ultimately the responsibility of the Secretary of Commerce to conserve our—for the conservation of our resources and promote efficient use of the resources.

Although some may wish to blame factory trawlers or rapidly expanding shore-based processors for our dilemma, the fishermen do not make regulations. They only attempt to be competitive within the rules established. We are perhaps too greedy or competitive but, on the other hand, we are not the resource managers. If the door for growth remains open, you must expect new entrants into the fisheries.

Mr. Chairman, it seems rather ironic that only a few years ago all of the groups that are now battling each other were before you seeking help to dethrone the foreign fishermen and get them out of our zone. Congress came forth with the Processor Preference and Fish and Chips amendments, the Capital Construction Fund, low interest loans, S-K programs to develop products, technology and marketing opportunities to assist growth and Americanization of our industry. The administration also helped by opening foreign markets.

Finally we were told by the late Senator Magnuson to get out and compete and fish or cut bait. The trawl, line and crab fishermen did just that. We came on like gang busters and built a modern competitive factories fleet, factory trawler fleet and line fleet and new shoreside processing facilities.

Now we are told by some groups that we overdid it and someone must get out. Mr. Chairman, the guardian of the Act, NOAA, must have been asleep at the switch.

I have a few recommendations that I would like to read, and we have them in the paperwork, but No. 1, establishes a broad-based observer program for all high seas fisheries where data are vital to living resource management. The cost of the program should be shared by the industry and the government.

No. 2, retain and do not tamper with the national standards of the FCMA.

No. 3, send a strong message to NOAA to get into the management cycle as we believe was the original intent of the Act.

No. 4, add an additional Council member of members from Washington and Oregon to equalize voting membership on the N.P.F.M.C., or North Pacific Fishing Management Council.

No. 5, establish a congressional working group of fishermen, managers and scientists to develop a comprehensive effort limitation program.

No. 6, oppose any attempt to modify the current Act's priority access language. Allocation between user groups can be achieved under the current Act if there is adequate documentation of the socioeconomic value of the allocation to the nation as a whole.

Mr. Chairman, that ends my statement.

Senator ADAMS. Thank you very much, Mr. Uri.

I would ask that you keep the timer working to limit us in our questioning so that we will get to the next panel. I will turn first to Senator Packwood. We'll each take five minutes, and if we can do it in that time, fine. If not then we'll rotate through another five minutes. I want to emphasize again to those of you that have just come in, we're not trying to prevent anyone from speaking. We

have a large number of people to be heard. The testimony is excellent. We want to be able to question in an orderly fashion, so that's the only reason for the timer.

Senator Packwood.

Senator PACKWOOD. Either Captain Fisher or Mr. Gordon or maybe both said—I wasn't on this committee when the Magnuson Act was passed, but did one of you or both say that the purpose was not only to get the foreigners out, which we all recognize, but was also to get processor ships out?

Mr. FISHER. No, no, I don't think we're saying that. What we are saying is NOAA's got to understand the rules which you people in the Senate and House gave them and to vigorously enforce them. That would, for example, if management information shows that you can only catch 50,000,150,000 tons of that fish, this specie, you go back to the other years and look how much that entity asked for. Tonnages are deliberately being tied up by D.A.P. preference.

The Act had three purposes as I read it and remember it. One was to renew a renewable—was to—to renewable marine resources. To get into under exploited and unexploited species. And thirdly, that NOAA would administer the Act to be the government's guardian and watchdog to see that the Council did what was right.

Senator PACKWOOD. Well, assuming proper conservation techniques are passed—I realize that's an arguable point, but assuming they are, why should Congress care what kind of ships catch the allocable quantity?

Mr. FISHER. It should not, providing the playing field is level and what Konrad points out, and I think even Terry would agree with this, you're got to make sure that the playing field is level and get it together in the industry and work it out—he's happy as hell right now. I don't blame him.

Senator PACKWOOD. Who's he?

Mr. FISHER. Pardon?

Senator PACKWOOD. Who are you pointing at?

Mr. FISHER. Terry Baker, he's happy as hell. His snowball's going down the mountain adding sugar all the way. But what we've got to do is get an advisory group, you know, we've got the group that—what you should do is you should simply say to one of your staffers read this damn bill good and understand it good and then you get to know her nibs and you make sure we're going the right way.

Senator PACKWOOD. Let me ask you another question. I want to read what Mr. Baker said, just one sentence. "To change the FCMA or its national standards at this time to give any interest group, gear type, processor type or business group an advantage, preference or other favorable treatment would be totally unfair and financially devastating."

Do the rest of you agree with that statement or do you want to give certain preference to certain kinds of gear type, interest group, processors or business groups or otherwise?

Mr. FISHER. I want to—go ahead.

Mr. GORDON. If the process of managing fish, balancing the harvestable component with the human capacity to fish it was actually going on, there may not need to be a concern for giving a preference. But what we're facing, sir, is that 85 percent of the O.Y. in

the northern fishery has been allowed by mismanagement to fall to the factory processors. Now, that hardly subscribes to National Standard No. 4, in our view, especially when most of those factory processors come from the state of Washington.

Senator PACKWOOD. Which is Standard 4?

Mr. FISHER. One congressional district.

Senator PACKWOOD. Which is Standard 4?

Mr. GORDON. The one that speaks to fair and equitable allocation of resources among user groups.

Furthermore, sir, on your question about why Congress should be concerned. This fish resource belongs to the people of the United States. It does not belong to the fishermen.

Mr. FISHER. Right.

Mr. GORDON. What we have is an agency that has said we'll do whatever the Council wants us to do and we have Councils that say we'll do whatever the industry wants us to do, so they have not seriously contemplated Section 303, which under its discretionary provisions contemplates the balancing act of the human component with the harvestable component; including limiting entry.

What we have, in the main, in U.S. fisheries, is management that has hitherto focused on the fish but not the people fishing it, and so now we have a situation which a good manager could have foreseen two years ago and acted, which the Council didn't, to require full accountability through an observer program. But here we are caught with our pants around our proverbial legs and we're scrambling to get some sort of data. That's why we say give us 20 percent of the O.Y. and fish it under J.V.P. We now pay for a hundred percent observer coverage, and so if we need it that much, give access to the fish to us. We'll give you the data.

But I think it's important to note that this fishery does not belong to the fishermen. They should not be allowed to act like foxes controlling the chicken coop, to destroy the fishery for future generations.

Senator PACKWOOD. Thank you, Mr. Gordon.

Senator ADAMS. Senator Gorton.

Senator GORTON. Given the nature of my question, I'm probably only going to get one in this five-minute period. Senator Packwood already quoted the one sentence from Terry's statement on which my question is partly based.

Konrad, I have one sentence from your statement when you say that you're sorry if you seem peeved but this mess has pitted former friends against each other and put different gear types and regions into a conflict and struggle which could have been avoided. I'm going to give this assignment to you, and the fairness with which you answer my question will determine how many of these others get to argue with you afterwards.

For the purpose the record that we'll have in the Congress Committee to deal with a lot of members who don't know or care much about fisheries issues at all and have to work their way through all of these varied interests, Konrad, here's your assignment, now, for the next few minutes.

Will you describe as fairly and succinctly as you possibly can what each of these different gear types is, where the conflicts are, both with respect to the fishermen, what different kinds of fisher-

men are and why do they conflict? What are their different views being expressed here today? What are the regional conflicts and what are the processing kinds of conflict?

Just, in other words, give us a list of the players and what their positions are, as fairly as you can. If you do it right, nobody else will argue with you here. If you don't, each of the rest will get to comment on it.

Mr. URI. I don't think you can do this in five minutes.

Senator GORTON. I'm only limited to five minutes. You go ahead with it.

Mr. URI. You know, we started with small vessels and we worked our way into these large vessels because that's what we were confronting here quite a few years ago, 20 years ago, 25 years ago, 30 years ago, we had the—first of all you had all the Japanese and then came the Soviets and then came everybody else with their factory ships, and we became noncompetitive. Our prices went way down. So we developed different—went into different fisheries.

You have the pot fishery. They have one type of gear and they take up a lot of area. We have the line fishery——

Senator GORTON. What's a pot fishery?

Mr. URI. King crab, fishing King crab on this coast, the Dungeness crab, fishing crab, per se, basically. And on the—the same on the east coast, lobsters and crab, also. That's one fishery. They want to have their specific areas, and fish being what they are, wherever the feed is, basically all the fish are.

You have a line fishery that's been here forever. It fishes on the same grounds. That's a long line with hooks on it. They have a problem that we're in conflict with them in time and area and other things.

Then you have the trawlers which want to be in the same place, and they are towing their nets and the fish being where they are, they all want to be in the same place, and all of this comes to be kind of a mess.

We weren't—the reason we have a problem, I guess, is that we weren't economically able to compete with the foreigners in those early——

Senator GORTON. We?

Mr. URI. The U.S.A. wasn't able to compete with the foreigners in those early years and we have the FCMA to show—that was given us, you might say, to make us competitive. Told us to go out and do what we did. So we went and built larger vessels, opened up a whole new industry. Government was assisting all the way along and things went very well.

Senator GORTON. The larger vessels are all or mostly trawlers?

Mr. URI. That's correct. But in—what happened, then, the smaller vessels were brought into this also through the Processor Preference and the Fish and Chips Program. We didn't want to leave anybody behind and so we made a —until an American processor, if you will, was able to handle the fisheries, we made the deals with the Russian and the Japanese and the Korean processors. They would be the processing entity until the U.S.A. was able to come into the fore.

But the understanding always was that everybody that entered that J.V. fishery, if you will, was told—there was no secrets—that

it was a short-lived program if the Americanization program was successful, and they went in supposedly with their eyes open. No one knew that a whole new fleet would develop. We expected the old fleet to come along and do their thing and go back to what they were doing before.

This never happened. A new fleet was developed. New boats were built and a lot of new people had interests that were brought into this, but the Americanization program went on just the same, and of course now, this year, we're basically 100 percent American and we have a whole new fleet and we have a whole old fleet and we have to find a home for these fellows, and the new shoreside facilities, just because of the mass production they can do, there isn't room for this old fleet and the new fleet that was built. There isn't a home for everybody. So we have a serious problem with that.

Senator GORTON. Does everybody feel——

Mr. FISHER. Yes.

Senator GORTON [continuing]. That that is accurate?

Mr. FISHER. I think that that was excellent, and Terry's testimony is excellent, and I go with them all the way, providing you to the mix what happens, what about the J.V.s? We're the ones who are out and proved it off Oregon and the Bering Sea, small boats. What happens to us? If it's going to be—if D.A.P. is going to be defined we want, and I underline this, some sort to priority preference given to the ports. We don't believe in community development. All we say is parts, legal-wise, have got to go if the coastal ports, we want a preference on landing for the simple reason we employ a hell of a lot more people than he does and what's going to happen—I'm sorry, I've been having trouble with cancer—what's going to happen to us. Five years from now, three years from now, given the current thing. I'll sink my trawlers for scrap and go buy a goddamned dory and start fishing salmon again.

Senator ADAMS. Thank you very much. I will give you additional time. I might explain that I'm a member of NOPS, which is the National Ocean Policy Study, and am the at-large designee. Senators Packwood and Gorton are on the Commerce Committee. NOPS has members from a number of committees. It was set up by Senator Magnuson.

I also am an historic relic, Barry, like you are. I fished Alaska in the trade in 1947, through 1951. I also was on the committees and involved when we passed the Magnuson Act. In the last eight years before I came back into the Senate, I was involved with joint venture programs. You are all absolutely accurate. This has been an excellent panel. I want you to know that some of us did predict that the problem would be that once we got rid of TALFF and we moved the Japanese processors out that the Americans would all arrive. Now, we didn't expect you to arrive so quickly. I must admit that.

I have just this one additional question, and any one of you can comment on it. We are caught in this situation. It wasn't that we didn't know that there was going to be a problem of allocation among the fleet.

What we did not anticipate was the rapidity with which the united States would develop a factory trawler operation. Now, we've got private enterprise up there which was demanded when

we went into the Magnuson Act. I'm sure Bob and Slade remember the debate in those years that they did not want us to have the government do any more in terms of fishermen or gear.

We were directed, as you stated, toward fish, which meant we opened and closed seasons, we put observers on Japanese boats, but we did not try to differentiate between a trawler or a long time or whoever. In the old days, you remember, you had gill nets and traps and everything else. We got rid of some things, but most of it we did not allocate among fishermen.

Now this request is being made, really, to my colleagues who are on the Commerce Committee, because I'll see it from the money end. That's why I mentioned what the National Ocean Policy Study was.

But you have two concerns, as I understand what this panel has said. One, you want consideration of some kind of allocation system, and second, you want the government to regulate free enterprise up there. And I know that statement really bothers all of you. But you see, once you start, you leave fish and you start with vessels, then you are regulating the free enterprise. This will be an issue for my colleagues first because they get first bite, and then I'm going to see, because we will have a problem appropriating money for observers. We're going to have to have support from the finest and those involved in the industry to carry those kinds of initiative, because a great many people, as Slade indicated in Congress, don't know anything about the fishery industry, and therefore they rely upon what we say. But a lot of Congressmen know about private industry and they're going to be popping up.

Now, I know you have your hands up. I will go first to you, and then to you (indicating).

Mr. FISHER. I would disagree with you that we're limiting free enterprise.

Senator ADAMS. No, I didn't say we were, but——

Mr. FISHER. Okay, but——

Senator ADAMS [continuing]. We're talking about it.

Mr. FISHER. Okay. And I would agree with you once NMFS and NOAA get in there and start pushing the game rules. Then we can start talking about what I want first. The other thing is that the Congress and the Senate, in their wisdom, and in peculiarly American manner, last July, not only biologic considerations, they're economic and social. I went to a hearing over at Britain once and they told me you're bloody daft, crazy, can't even manage biologically. I said we wrote a Bill of Rights, too. We're never going to get that moving and march.

I think the thing should not be fought through in terms of allocations, but socioeconomic data that's never been ordered and put in before and that we ought to be forced to enter that fray and agree among ourselves. But socioeconomic data now has to come. I don't want to see this fishery turned into one congressional district taking everything.

Senator ADAMS. You had your hand up, but then I'll quit.

Mr. GORDON. Sir, I hear what you're saying, but we've got a situation off Washington and Oregon where there are fisheries in a tenuous equilibrium right now. Now, if we allow, under open access, people that are being squeezed out because of shortened sea-

sons in one area to come down and destroy that equilibrium, that is hardly in the national interest. Plus from a fish resource point of view, or from the human resource point of view, because these are high-volume low-value species in the ground fish fishery which require certain large economies of scale, we face imminent bankruptcies and overfishing in an effort to avoid them.

Senator ADAMS. You're worried about the hake fishery off the coast, right?

Mr. GORDON. Well, that, sir, but once that's finished we're talking about the rock fish complex. Now, if we get shortened seasons up north, these factory processors have testified they need an 11-out-of-12-month operating year, and what do they do if the season goes down to six months? Many of them will go bankrupt. That's hardly in the national interest.

So, you know, we recognized traditional Indian fishing rights, but no one else, under open access, has got any rights. And the logical thing to contemplate as under Section 303 is history in the fishery as reflected by the vessel, by the catches over time, and you can add the fishermens' commitment and dependence to it, which extends to the community from which you come, as Barry is alluding to.

Now, that may be distasteful. What is the alternative?

Now, we've suggested, under open access, a system that would allocate to and reward American content, because presently it's ironic that the real American fishermen, the true American pioneers, are tied up by vessels that may be up to 90 percent foreign and which waste 25–50 percent of their catches.

Yet there's no accountability, but I must say we applaud the North Pacific Council's action recently to implement the mandatory observer program. That's a good first step. But although it's distasteful, we're asking ourselves do we want to have an open access regime that's no good for anybody in the future? Because that's what we'll have under open access and no accountability. Do we want to have those bankruptcies? I don't think so. So we're going to have to make some hard decisions, and they're contemplated in the Act now, but we're not using it.

Senator ADAMS. I want to thank all the panel.

Senator GORTON. Terry.

Mr. BAKER. I have one comment, Senator.

Senator ADAMS. Please.

Mr. BAKER. In answer to your specific question, your last question, as far as regulating free enterprise, I think with the exception of one panel member we're not asking that the federal government regulate free enterprise. There may be bankruptcies. We've been through it before. But the free market usually balances out that type of a situation and we want the concern and the management to be focused on the conservation of the resources. Stay out of the management of user groups or preferential rights. Just concern yourself with the resource and the future of that renewable resource.

Thank you.

Senator ADAMS. I know that is a controversial statement and I'm not going to ask all of you to comment on it because we are going

to have other panels, but we will try to get back to that before we adjourn.

Thank you all very much.

We will call Panel No. 2 at this point. Members of Panel No. 2 are Mr. Bob Alverson, Manager, Fishing Vessel Owners' Association; Mr. John Bruce, Executive Director, Deep Sea Fishermen's Union of the Pacific; Mr. Mike Spike Jones, Fishermen's Advisory Committee, Port of Newport; Mr. Joseph T. Plesha, General Counsel, Trident Seafoods Corporation. If you would please come forward? We will continue to apply the same rules—you may use your five minutes in any way that you wish but your statement will appear in full in the record.

We'll start from left to right as we did before.

STATEMENT OF MIKE SPIKE JONES, FISHERMEN'S ADVISORY COMMITTEE, PORT OF NEWPORT

Mr. JONES. Thank you, Mr. Chairman. I'm Spike Jones. I'm here representing the Port of Newport, Oregon. I'm a member of the Fishermen's Advisory Committee. I handed in my statement.

The testimony I gave encompasses four major points.

As a port, Newport is bascially a fishing community and we have had a lot of our members involved in pioneering the J.V.'s and many are still active J.V. fishermen. We see a danger of the factory trawler fleet moving to the west coast as the quotas get used up in Alaska. So we as a community realize we desperately need some kind of a shoreside preference in order to continue the economic basis of our community. We aren't asking for all the fish, but we don't feel it's fair for other entities of fishing communities to end up with all the fish, either.

The second point is many of our members of our community, and other communities in Oregon travel to Alaska to fish and they have a long history of fishing in Alaskan waters. Since under the Magnuson Act there is no representation from Oregon Industry on the North Pacific Fisheries Management Council. There's basically one A.P. panel member. We have no industry representation besides that. We think that's unjust and the reauthorization should reconsider the industry representation from the west coast.

We see user fees coming and we don't have any big problems with user fees. I think the industry should help support its own business and research and management. One danger we see is that the user fees extracted from the regions where they're used may end up supporting another region or politically being used wherever it's most expeditious at that time. We'd like to see the Councils in those regions have a great deal to say with where the user fees go and what they're used for and see them retained and put back into the fisheries where they come from.

And last of all, the observer problems we've had in the North Pacific is really deplorable. We've lost a data base. I fault National Marine Fisheries Service and the Councils for inaction. At the last meeting the Council passed a resolution where we would have 100 percent observers on 125-foot vessels and larger trawlers and 30 percent observer coverage on those vessels smaller.

The danger I see is in the past these things have gone to litigation, people have fought them politically and lobbied against them. The earliest possible implementation of this is 1990 and I can see it going two or three or more years before we get observers if we go through the same process we had in the past. So I'm asking for your help in the reauthorization to mandate it.

I don't care where the money comes from to pay for these things. I've written letters and other fishermen have, too. We are willing to help support an observer program. The J.V.'s who were mandated to pay for the those observers did so. I think that all of various fisheries could be requested to do the same thing.

Thank you very much for the opportunity to testify here this morning.

Senator ADAMS. Thank you very much, Mr. Jones.

[The statement follows:]

JUNE 28,1989

Dear Sirs:

In this year of the reauthorization of the MFCMA I very much appreciate the opportunity to testify in these field hearings. There are a lot of controversial subjects but I shall just touch on a few that are most important to Newport, Oregon as a community that for a large part is a fishing port.

Many fishermen from Newport were the early pioneers in the J.V.'s and had a lot to do with the Americanization of our fisheries. We now feel threatened by the overbuilt factory trawler fleet. We feel that to encourage real Americanization of the West coast fisheries we need onshore processing of hake or whiting. It is almost impossible to encourage anyone to invest money in shoreside processing of these fish without some kind of guarantee that there will not be a reoccurrence of the situation in Kodiak, Alaska this spring where the factory trawl fleet took the quota in a very short time, precluding the operation of the processing plants in town causing the loss of jobs, possibly for the remainder of the year.

With a shoreside preference, something like a DAP preference over JVP on an Olympic basis, we have to be careful not to be trapped into community quotas or plant quotas. In the Pacific Northwest, Oregon, Washington and California, the factory trawl fleet has no or very little history. There is time to avoid the problem before it starts.

Many fishermen from Newport are involved in the Alaskan area fisheries, trawling, crabbing, etc. Fishermen from Oregon catch 15-20% of the fish produced in Alaskan waters and yet we are only represented by one member on the AP and the industry has no seat on the NPFMC. The only seat from Oregon on the council is that of the ODF&W directors. I feel we need more representation on the NPFMC.

I also feel that if the fishing community is assessed user fees of one sort or another, we feel such fees should be kept in the region that they are assessed for use in management, research, etc., as directed by the councils in that region. We are not against such fees that are properly used.

The problem of no observers on factory trawlers is unforgiveable. I blame the councils and the NMFS for this. There are many things going on according to crew and others on the vessels; highgrading, under logging, illegal fishing and unbelievable bycatch damage. But without observers verification of these problems is impossible. At the last NPFMC meeting the Coast Guard stated that in 225 boardings in the period prior to the meeting only 7 were on factory processors . Out of the 16 vessels found in violation all 7 of the factory processors were offenders. This tells me something.

The council finally voted to put observers on trawlers but the process is slow and at best, it won't happen until January of 1990, if then. Please help this process.

Port of Newport
Fisherman's Advisory Committee
Michael(Spike)Jones

Michael (Spike) Jones

1917 N. Beaver Creek Rd
Seal Rock, Oregon 97376

STATEMENT OF JOE PLESHA, GENERAL COUNSEL, TRIDENT SEAFOODS CORP.

Mr. PLESHA. Mr. Chairman, members of the committee, my name is Joe Plesha of Trident Seafoods Corporation. We're certainly grateful for the opportunity to be here today and testify on the reauthorization of the Magnuson Act. We are especially appreciative of the fact you've come to Seattle during the Congressional recess to listen to some of our concerns.

As you may be aware, Trident is a seafood fishing, processing and wholesaling company. We were founded in 1973 with a single vessel and since have expanded and improved our operations. Currently Trident has on-shore processing plants at Sand Point, South Naknek and Akutan, Alaska, and we operate secondary processing facilities in Bellingham, Washington and have recently purchased and are now remodelling a plant in Anacortes.

Trident remains 100 percent U.S. owned and we employ approximately 2,000 individuals, including over 500 at our facilities in Washington state.

Trident does not believe that there needs to be any major changes in the Magnuson Act during its reauthorization. The North Pacific Council has done, we believe, an exceptionally good job of conserving fishery resources within their jurisdication while promoting the development of the U.S. industry.

My purpose of my testimony today is to make the committee aware that because of the increased harvesting and processing capacity in the North Pacific, there will soon be restrictions placed on the taking of groundfish by U.S. companies. In the past, as you understand, fishery conservation measures were taken at the expense of foreign fishing efforts, not U.S. companies.

As we begin to impose conservation measures on our industry, fishery managers are becoming aware of the allocative and socio-economic effects that conservation systems have and I believe are attempting to equitably balance the impacts on the various sectors in the seafood industry.

As the committee is aware, one of the most contentious issues faced by the North Pacific Council in recent memory is the allocation of fishery resources between in-shore and off-shore fishing interests. This issue was brought to the forefront earlier this year when the Gulf of Alaska pollock quota was taken in a six-week period largely because a number of factory vessels came to the Gulf of Alaska from the Bering Sea. Shore-based processors on Kodiak Island had anticipated that the pollock quota would be sufficient for the entire 1989 year. However, it was not to be.

To present an overview of the dramatic increase in the processing capacity which has flooded into the North Pacific, I've compiled a list in my written testimony of the factory vessels currently operating in the fisheries and those vessels which are believed to be in the pipeline. In summary, I believe there are approximately 35 factory vessels which will soon enter the fisheries and double the current capacity to take the groundfish resources of the Bering Sea.

In addition, there are announced plans for expansion of shore-based processing in the Bering Sea, as well.

Under our current management structure for groundfish off of Alaska, the fishing season is simply opened and fishing continues until the quota is taken. Little consideration has been given in the past to the percentage of the resource that is taken during spawning season, how the fish are utilized by processors, where the fish are taken from, what allocative impacts the management structure may have.

After the unexpected closure of the Kodiak pollock fishery, the North Pacific Fishery Management Council, however, has begun to review its management policy. The current management regime gives a preference to factory ships in that after the stocks in one localized area become depleted, the factory vessel has the ability to move to another location.

Except for the United States, I'm unaware of any nation in the world with both at-sea and on-shore processing that does not strictly limit the at-sea fleet to protect existing shore plants and coastal communities.

Trident has various interests with regard to potential fishery allocations. We foresee the possibility of operating a factory trawler vessel in the future and, in fact, one of the members of Trident's board of directors is an owner of a factory trawler vessel. In addition, we have marketing arrangements with some factory trawler vessels and provide support services for the factory trawler fleet.

Trident, however, is concerned about the conservation impact that the large factory fleet may have on the resource surrounding our shore-based plant at Akutan. The growing factory trawler fleet now has the ability to pulse fish, taking all of the stocks from a particular area and then moving on to other fishery grounds. The shore-based processors, therefore, in the area around Dutch Harbor and Akutan have proposed that the North Pacific Fishery Management Council consider creating an in-shore fishery area around Dutch Harbor in which only vessels that deliver to shore-based processors can operate.

I'd like to emphasize that the proposal does not create a separate quota for shore-based and at-sea processors. As soon as the overall Bering Sea pollock quota is reached, the entire pollock fishery would be shut down for both factory vessel and shore-based processors. Thereby I suppose we both have the ability to go bankrupt together. Shore-based plants would only be protected from this destructive ability of the factory fleet to deplete the resource in a localized area where shore plants need to operate.

It has been alleged that any modification of the factory fleet's ability to operate in the area around existing shore plants would merely benefit major Japanese companies which have invested in shore-based processing. But foreign-owned companies own a large percentage of both on-shore and at-sea processing facilities.

The Anti-reflagging Act's requirement that U.S. citizens have controlling interest in U.S. fishing vessels does not apply to any vessel that was in the fishery before July 28, 1987, and the grandfather provisions of the Anti-reflagging Act run with the vessel, not with the entity that owns the vessel. Therefore the exemptions apply even if the vessel is transferred from United States to foreign ownership.

In summary, foreign ownership is currently not restricted to onshore processing and foreign entities continue to own and rebuild overseas foreign vessels for operation in the fisheries of the North Pacific.

In fact, at the last meeting the North Pacific Council voted to recommend that Congress request a G.A.O. study of the impacts that the large percentage of foreign ownership has on the seafood industry in the North Pacific. Foreign investments are continuing to be made in the fishery, in part based on factors not related to receiving a profitable return on investment. These continuing investments are a major reason for the excess capacity in the fisheries and are a cause of concern for many with an interest in the long-term health of the seafood industry. We would ask that the committee support the North Pacific Council in its request and that a study of the extent and impacts of foreign ownership be undertaken.

Finally, in closing, Mr. Chairman, every fishery conservation measure has a corresponding allocative impact. The North Pacific Council is just starting to review the potential conservation problems caused by the dramatic excess of fishing effort and the allocative and socioeconomic impacts of its current management system. The Magnuson Act established the Regional Fishery Management Council system so that difficult issues such as allocations between various sectors of the industry can be addressed in the affected region. The allocation of fishery resources will be the topic of heated debate at the Council and one which Congress should closely monitor in the months ahead. We believe, however, that Congress should allow for the Magnuson Act to work as intended and support the Council during its deliberations.

Again, I am grateful for the opportunity to testify. Thank you.

Senator ADAMS. Thank you very much, Mr. Plesha.

[The statement follows:]

STATEMENT OF JOSEPH T. PLESHA, GENERAL COUNSEL, TRIDENT SEAFOODS CORPORATION

Mr. Chairman:

Thank you Mr. Chairman, members of the Committee, my name is Joe Plesha of Trident Seafoods Corporation. We are grateful for the opportunity to give testimony before you today on reauthorization of the Magnuson Fishery Conservation and Management Act ("Magnuson Act"), and appreciate you taking the time to come to Seattle during this Congressional recess to listen to our concerns.

As you may be aware, Trident is a seafood processing and wholesaling company. We were founded in 1973 with a single vessel, and throughout our history have expanded and improved our operations. Trident acquired San Juan Seafoods of Bellingham, Washington, in 1974 to provide for value added processing of many of the seafood products we produce in Alaska. In 1982 Trident became one of the first shorebased processors of Alaskan groundfish by building a cod processing plant on the remote Aleutian Island of Akutan. Our Akutan plant was destroyed by fire in 1983, but was rebuilt and expanded to become what is today one of the largest shorebased processing facilities in the state. In 1986, we purchased a shoreplant in Sand Point, Alaska, and in 1987, Trident merged its assets to acquire ConAgra's North Pacific fishing operations, including two large floating processors and a salmon cannery in Bristol Bay.

Currently, Trident has on-shore processing facilities at Sand Point, South Naknek and Akutan, and various floating processors which are utilized throughout Alaska. We continue to operate a secondary processing plant in Bellingham, Washington, and have recently purchased a facility in Anacortes. Trident is remodeling and expanding the Anacortes plant to increase our value added processing capabilities and provide vessel maintenance facilities for our fleet. Trident remains one-hundred percent U.S.-owned and we now employ approximately 2,000 individuals, including over 500 at our facilities in Washington. With the expansion of our Anacortes plant, our employment in the state of Washington will expand to over 750 personnel next year.

In summary, during the past fifteen years Trident has grown from the operators of a single vessel to one of the largest seafood processing companies in the Pacific Northwest. Like other U.S. seafood companies, we owe a large amount of our success to the fishery management authority that was undertaken by the United States when the Magnuson Act

became law in 1976. Before passage of the Magnuson Act, nearly all of the groundfish resources off Alaska were harvested and processed by foreign fishing interest. With the jurisdiction over fishery resources as provided by the Magnuson Act, the United States industry has recognized its goal of full utilization of our valuable fishery stocks.

Trident does not believe it necessary that there be any major changes to the Magnuson Act during its reauthorization. The North Pacific Fishery Management Council ("NPFMC"), the fishery management council with responsibility for the fishery resources off of Alaska, has done an exceptionally good job of conserving the fishery resources within their jurisdiction while promoting the development of the United States seafood industry. An example of how the NPFMC is willing to undertake steps necessary for fishery conservation, at its last meeting the NPFMC voted to adopt an amendment to its management plans which would require observers on all vessels over 125 feet in length and on thirty percent of the vessels under 125 feet. The costs of the observers will be borne by the vessels which carry them. We believe this demonstrates the strong conservation ethic of the NPFMC and we support the NPFMC's actions in this area.

The purpose of my testimony today is to make the Committee aware that, because of increased harvesting and processing capacity in the North Pacific, there will soon be restrictions placed on the taking of groundfish by U.S. companies. Every fishery conservation measure has an allocative impact, including the current system of opening the season and promoting a race to determine who can harvest and process the resource most quickly. As we begin to impose conservation measures on our industry, fishery managers must be aware of the allocative and socio-economic effects of the system and attempt to equitably balance the impacts on the various sectors of the seafood industry.

One of the more contentious issues faced by the NPFMC in recent memory is the allocation of fishery resources between in-shore and off-shore fishery interest. This issue was brought to the forefront earlier this year when the Gulf of Alaska pollock quota was taken in a six week period by a number of factory trawler vessels which entered the Gulf of Alaska from the Bering Sea. Shorebased processors on Kodiak Island had anticipated that the quota would be sufficient for the entire 1989 year. Many of these factory ships which operated around Kodiak stripped-roe from the pollock — removing the roe from the female fish while throwing away the carcass of the both the female and male fish. Roe-stripping allows for a processor to maximize production of high valued pollock roe without having to "waste time" processing the flesh from the fish. After the Gulf of Alaska pollock quota was gone, the factory vessels returned to the Bering Sea to continue processing from the larger Bering Sea pollock quota. The shorebased plants in Kodiak, however, obviously lack the ability to move their operations to the Bering Sea. These plants that had anticipated sufficient pollock quota for most of the 1989, were closed six weeks into the season.

There has been an unprecedented increase in the number of factory vessels during the last few years, and there seems to be no end to the entry of these vessels into the fisheries. This rapid increase has resulted in shortened seasons for groundfish species that have traditionally been year round fisheries. To present an overview of the dramatic increase in at-sea processing capacity which has flooded into the North Pacific, I have compiled the following list for the Committee of the factory vessels currently operating in the fisheries and the vessels which are believed to be "in the pipeline" — either under construction or being planned for construction.

Factory Vessels
Currently Participating in the Fisheries

	Vessel	Length (Feet)	Estimated Annual Capacity (Metric Tons of Raw Product)
1.	Alaska Hero	170	6,000
2.	Alaska No. 1	220	5,385
3.	Alaska Voyager	220	11,077
4.	Alaskan Command	185	10,000
5.	Aleutian Bounty	133	3,077
6.	Aleutian Enterprise	162	10,000
7.	Aleutian Speedwell	204	30,434
8.	Aleutian Trawler	165	9,100
9.	American No. 1	160	5,385
10.	American Empress	300	52,000
11.	American Enterprise	210	30,435
12.	Amfish	219	5,385
13.	Arctic Enterprise	340	34,000
14	Arctic Storm	333	52,000
15.	Arctic Trawler	296	16,000
16.	Bering Enterprise	183	7,692
17.	Bering Trader[1]	350	52,000
18.	Bristol Enterprise	190	31,304
19.	Brown's Point	190	19,575
20.	Claymore Sea	244	60,000
21.	Crystal Viking	200	10,000
22.	Endurance	278	36,363
23.	Golden Alaska[2]	302	18,000
24.	Harvester Enterprise	190	19,575
25.	Heather Sea	250	60,000
26.	Michell Irene	250	60,000
27.	Northern Aurora	150	6,107
28.	Northern Eagle	340	52,000
29.	Northern Enterprise	180	19,575
30.	Northwest Enterprise	162	10,000
31.	Northern Glacier	201	19,575
32.	Ocean Bounty	132	3,077
33.	Ocean Enterprise	155	9,100
34.	Pacific Enterprise	155	9,100
35.	Pacific Glacier	275	60,000
36.	Rebecca Irene	143	5,385
37.	Royal King	220	28,636
38.	Royal Prince	220	28,000

39.	Royal Princess	217	28,636
40.	Royal Sea	296	28,636
41.	Seattle Enterprise	270	36,363
42.	Sno-King	220	28,363
43.	Starbound	240	37,800
44.	Tremont	131	4,000
45.	U.S. Enterprise	224	30,435
46.	Unimak Enterprise	180	10,000
47.	Vaerdal	124	4,000
	Total		*1,113,575*

Factory Vessels Believed To Be Under Construction or in Planning

	Vessel	Length (Feet)	Estimated Annual Capacity (Metric Tons of Raw Product)
1	Alaska Ranger	200	10,000
2.	Alaskan Pride	180	10,000
3.	Alexandre	360	100,000
4.	Aleutian Command	240	36,000
5.	All Alaskan	300	52,000
6.	American Dynasty		100,000
7.	Arctic Rose	180	10,000
8.	Arica	184	10,000
9.	Bering One	165	10,000
10.	Columbia	122	5,000
11.	Crystal Star	180	10,000
12.	Defender	200	10,000
13.	Deep Sea	240	36,000
14.	Destination	240	36,000
15.	Donna Karen Sun Mil	360	100,000
16.	Energy Services One	190	10,000
17.	Hazel Lorraine	150	10,000
18.	Highland Light	240	36,000
19.	Island Enterprise	295	52,000
20.	Kodiak Enterprise	270	36,000
21.	Northern Jagger	340	52,000
22.	Northern Hawk	340	52,000
23.	Ocean Cyclone	340	52,000
24.	Ocean Harvester	108	5,000
25.	Ocean Pacer	125	5,000

26.	Ocean Phoenix	680	180,000
27.	Polar Star	262	36,000
28.	Resolute	245	10,000
29.	Royal American	120	5,000
30.	Sharon Lorraine	150	10,000
31.	State Express	380	84,000
32.	State Glory	245	36,000
33.	State Justice	245	10,000
34.	State Trust	245	36,000
35.	Volunteer	200	10,000
	Total		*1,262,000*

Under our current management structure for groundfish off of Alaska, a total allowable level of fishing is established. The season is then opened until the fishing quota is taken. Little consideration is given to the percentage of the resource that is taken during spawning season, how the fish are utilized, where the fish are taken from, or what the allocative impacts of the management structure may be. This system, however, has been adequate in the past because until recently there has not been concentrated harvest of spawning stocks and there has been ample quota available for every participant to operate year-round.

After the unexpected closure of the Kodiak pollock fishery the NPFMC has begun a review of its management policy. The current management regime gives a preference to factory ships in that after the stocks in one localized area become depleted, the factory vessel has the ability to move to another location. As the fishing seasons become shortened, shoreplant operations are impacted to a greater degree than factory vessels, which traditionally schedule annual maintenance for a portion of the year. Further, with the impending excess of processing capacity, the NPFMC is considering requiring that the groundfish resources be more fully utilized by processors. Because factory vessels have limited processing space, they are not usually able to fully utilize the harvest of fish. Often odd-sized fish or by-catch species such as cod, are simply discarded overboard because of an inability to process the resource. Shorebased processors have the space for equipment

necessary to utilize different sized fish and species that may be delivered as a by-catch. In addition, large shoreplants are required to operate meal plants to achieve the maximum protein value for our fishery resources and reduce discharges of seafood waste into the water. Only four factory vessels currently have meal plants and the large majority of factory vessels simply discharge seafood waste overboard. Some factory vessels continue to strip large volumes of roe, while dumping overboard unprocessed males and the carcasses of females.

The NPFMC has requested proposals to allocate fishery resources between in-shore and at-sea processors. Except for the United States, I am not aware of any nation in the world with both at-sea and on-shore processing that does not strictly limit the at-sea fleet to protect existing shoreplants and coastal communities. The NPFMC is considering various types of proposals, including giving absolute preference to the resource for shorebased processors, or creating a separate quota for each sector of the industry. Trident has varied interest with regard to potential fishery allocations. We have examined the economic feasibility of building a factory trawler vessel to complement our on-shore production and foresee the possibility of operating a factory trawler vessel in the future. In fact, one of the members of Trident's Board of Directors is an owner of a factory trawler vessel. In addition, Trident has marketing arrangements with some factory trawler vessels and we provide support services — such as trawl nets, diesel fuel, and secondary processing facilities — for the factory trawler fleet.

Trident, however, is concerned about the conservation impact that the large factory fleet may have on the resource surrounding our plant at Akutan. The growing factory trawler fleet now has the ability to "pulse fish" taking all of the stocks from a particular area and then moving on to other fishing grounds. This method of fishing can be damaging to

fishery stocks in general. Moreover, because shoreplants do not have the ability to move to other locations, they rely on the groundfish resource being relatively close to the plant. The factory fleet has the ability to fish-out the resource from the area around a shoreplant, thereby destroying the viability of the shorebased processor as well as the communities which depend on them, without any immediate adverse impact on the factory trawler's operation.

The shorebased processors around the Dutch Harbor/Akutan area have therefore proposed that the NPFMC consider an amendment of the Bering Sea pollock management plan which would protect the shoreplants from localized depletion caused by the factory fleet. The proposal would start the opening of pollock harvesting season on a date no earlier than April 1st instead of the current January 1st opening date. Pollock spawn in the area around Dutch Harbor during the first three months of the year. The delayed opening would eliminate the concentrated fishing for pollock roe that now occurs in the area. The proposal would also create an in-shore fishery area around Dutch Harbor in which only vessels that deliver to shorebased processors could operate. If there is sufficient pollock fishing quota remaining to provide for a fishery during the roe season, however, the in-shore fishery zone may be opened to at-sea processor fishing effort as well as fishing by vessels making deliveries to shorebased processors. Thereby both shoreplants and factory vessels would have equal access to the roe fishery stocks. In addition, we propose that the NPFMC adopt strict regulations regarding the percentage of the pollock fishing quota that can be harvested during the roe season. Finally, our proposal would require full utilization (including meal) of all pollock harvested in the in-shore fishery area for delivery to shorebased processors, regardless of the time of year the resource is harvested.

The factory fleet is concerned with our proposal because traditionally the waters near Dutch Harbor have been productive and they generally do not want to be excluded from any fishing grounds. A review of fishery statistics, however, reveal that foreign factory trawler vessels historically operated outside of the proposed in-shore fishing zone. In addition, many domestic factory trawler vessels currently operate outside of the proposed zone. I would like to emphasize that the proposal does not create a separate quota for shorebased and at-sea processors. As soon as the overall Bering Sea pollock quota is reached, the entire pollock fishery would be shut down for both factory vessels and shorebased processors. Shorebased plants would only be protected from the destructive ability of the factory fleet to deplete the resources in the localized area's where shoreplants operate.

It has also been argued that any modifications of the factory fleet's ability to operate in the area around existing shoreplants will merely benefit major Japanese companies which have invested on-shore. Foreign-owned companies, however, continue to own a large percentage of both at-sea and on-shore processing facilities. Foreign ownership in at-sea processing has not been stopped by restrictions recently imposed through the Commercial Fishing Industry Vessel Anti-reflagging Act of 1987 ("Anti-reflagging Act"). The Anti-reflagging Act amended the Vessel Documentation Act to require that the controlling interest in a corporation which owns a fishing vessel be held by U.S. citizens. The Anti-reflagging Act also amended the Magnuson Act to require that all rebuilding or reconstruction of fish processing vessels be accomplished in U.S. yards if the rebuilt vessel is to be used in United States fisheries.

The U.S. rebuilding requirements of the Anti-reflagging Act, however, have "grandfather" provisions which allow for the rebuilding in foreign shipyards of U.S. vessels that were subject to a contract to rebuild entered into within six months after the date that the Anti-

reflagging Act became law. As evidenced by the U.S. hauls that are being rebuilt abroad, it is clear that a large number of vessels took advantage of the grandfather clause. Further, the Anti-reflagging Act's requirement that U.S. citizens have controlling interest in a fishing vessel does not apply to any vessel that was in the fishery before July 28, 1987. The grandfather provisions of the Anti-reflagging Act run with the vessel, not with the entity that owns the vessel, therefore the exemptions apply even if the vessel is transferred from U.S. to foreign ownership. In summary, foreign-ownership is certainly not restricted to on-shore processing. Foreign entities continue to own and rebuild overseas factory vessels for operation in the fisheries of the North Pacific.

At its last meeting, the NPFMC voted to recommended that Congress request a General Accounting Office study of the impacts that the large percentage of foreign ownership has on the seafood industry in the North Pacific. Foreign investments are continuing to be made in the fisheries, in part based on factors not related to receiving a return on investment. Foreign-owned entities are expanding both on-shore and off-shore groundfish processing capacity so that the foreign-parent company can maintain large market shares of products produced from pollock. Furthermore, shipyards in northern Europe are subsidizing the rebuilding of factory vessels in their yards merely so that the yards can remain active. These continuing investments are are a major reason for the excess capacity in the fisheries and are a cause of concern for many with an interest in the long-term health of the seafood industry. In addition, because our industry largely relies upon foreign-markets for our products, there is a likelihood of favoritism towards the foreign-owned processor to the disadvantage of bona fide U.S.-owned companies. We ask that the Committee support the NPFMC in its request and that a study of the extent and impacts of foreign ownership be undertaken.

In closing, every fishery conservation measure has a corresponding allocative impact. The NPFMC is just starting to review the potential conservation problems caused by the dramatic excess of fishing effort and the allocative and socio-economic impacts of its current management system. The Magnuson Act established the regional fishery management council system so that difficult issues, such as allocations between various sectors of the industry, can be addressed in the affected region. The allocation of fishery resources will be the topic of heated debate at the NPFMC, and one which Congress should watch closely in the months ahead. We believe, however, that Congress should allow for the Magnuson Act to work as intended and support the council process during its deliberations.

Again, I am grateful for the opportunity to testify before you today. I would be pleased to answer any questions you may have.

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[1] The Bering Trader is currently leased to Exxon for use as a hotel ship in clean-up of the recent Prince William Sound oil spill. We understand that the lease expires at the end of September.

[2] The Golden Alaska was partially destroyed by a fire in May of this year. We understand that its owners are planning to rebuild her.

STATEMENT OF BOB ALVERSON, MANAGER, FISHING VESSEL OWNERS' ASSOCIATION

Mr. ALVERSON. Mr. Chairman, my name is Bob Alverson. I'm manager of the Fishing Vessel Owners' Association here in Seattle. The association is a trade association organized in 1914 to represent hook and line vessels out of the state and currently represents approximately a little over 90 vessels, representing a significant number of the ice boats out of Seattle and the vast majority of the new freezer longliner vessels that are operating out of the state. We have approximately 40 vessels under contract with the Deep Sea Fishermen's Union.

Our members asked me to put into the written testimony four issues that are of concern to them. Briefly, two of them are as follows:

One, the North Pacific Council is prohibited by the Act of having Council meetings outside the state of Alaska. We would ask for a specific amendment that would allow Council meetings to be held within the states of Oregon and Washington.

Second, we ask that the Senate reassess the voting membership from the states of Oregon and Washington as we do not believe that the current mix is adequate to represent the total user needs, user group needs out of the two states of Washington and Oregon.

The primary issue that the association is concerned with is bolstering and augmenting the data based-gathering programs in the North Pacific, and with that as some of your may be aware, the North Pacific Council has taken a much-needed and aggressive management approach to the loss of resource assessment infomation that used to be collected on the foreign and joint venture fleets with 100 percent observer coverage. The Council has requested a high level of observers for the 1990 season. This cost will be paid by the individual vessels during 1990, for those vessels that are assigned observers.

The association proposes an amendment that would be a cost-recovery program to the Magnuson Act. Under the following mechanism, the association proposes that each Council be given the choice to set up a regional trust fund. We further propose that the fleet be assessed one-half of one percent, basically a raw-fish tax on round weight equivalent and paid annual to the fund.

We estimate that this would raise five to seven million dollars annually. It would cost somewhere between four to six million dollars to have a comprehensive data-gathering program with log book and observers, on-board observers, and we believe a trust fund would help augment the cost of both industry and the government into this need.

The Council has approached by the scientific community in September and November and they indicated to us that they could no longer provide the data base analysis for in-season or on an annual basis to the degree that the Council was asking and they proposed an aggressive data base-gathering program as coupled with observer programs.

The fourth issue that I'd like to comment on—I'm not sure I'll get through with it—has to do with enforcement in the Donut Hole area. At the Council meeting, at the June meeting, we were in-

formed by the U.S. Coast Guard that along the eastern boundary of the Donut Hole, which is approximately 380 miles long, 179 foreign fishing vessels from four different nations, five different nations, were gathered. And basically this is a ribbon from five to ten miles along a 380-mile boundary. The sailing distance to the U.S. Continental Shelf is approximatly one to three hours. The depth that these vessels were observed in is about 4,000 fathoms. Fishing usually takes place in about 200 to 100 fathoms.

It is the opinion of the association that these vessels are using this line as a staging area to raid on a daily basis the Continental Shelf fisheries in the Bering Sea, and with that we asked Congress to enact Section 311 of the Magnuson Act. This allows for the Department of Defense and specifically the U.S. Navy to be called in to monitor and control this northernmost boundary of our country. If was never envisioned, in my opinion, to have two Coast Guard vessels rotating on an in-and-out basis, basically one Coast Guard vessel for the Bering Sea to monitor that 380-mile area that is 200 miles off our coast.

This has further been compromised by a definition change by the State Department superimposed over the Magnuson Act definition of foreign fishing. And that issue is the issue of freedom of transit, which is an issue for our State Department and Department of Defense.

Under the Magnuson Act, a foreign fishing vessel basically is anything that looks like a fishing vessel, operates like a fishing vessel and smells like a fishing vessel has to have a permit. Under the State Department definition of freedom of transit, it's tantamount to having the following situation: We have a Coast—and I don't blame the Coast Guard. They're doing a yeoman's job.

If a Coast Guard personnel was standing in a bank and a man walked in with a .357 magnum on his hip and pantyhose over his head, he could not apprehend that individual because he's in freedom of transit through the lobby. And if for some brief moment the Coast Guard individual looked down at his shoes and the man robbed the bank and stuffed the money in his coat pocket and turned around, and the Coast Guard man looked up, he could still not apprehend him because he did not see him doing his deed, and he would have freedom of transit out of the area.

This industrial-strength dumb, and I ask that you three senators put some starch in the shorts of the State Department on this issue and have the Magnuson Act definition of foreign fishing, where these vessels have to be permitted and if they're—we don't have an allocation for these people to begin with, in this area. So they're out there, they can be boarded to see what's going on.

That concludes my comments, Mr. Chairman, thank you.

Senator ADAMS. Thank you very much, and I'm sure there will be some questions on your homily, which is a very good one.

[The statement follows:]

FISHING VESSEL OWNERS' ASSOCIATION
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SEATTLE, WASHINGTON 98119

SINCE 1914
Our 75th Year Serving the Pacific Longline Fleet

COMMENTS BEFORE THE NATIONAL OCEAN
POLICY STUDY OF THE U.S. SENATE COUNCIL
ON COMMERCE, SCIENCE & TRANSPORTATION
HEARING IN SEATTLE, JULY 7, 1989

REAUTHORIZATION OF THE MAGNUSON
FISHERIES MANAGEMENT ACT OF 1976

The Fishing Vessel Owners' Association appreciates the opportunity to present both written and oral comments before the Reauthorization of the Magnuson Fisheries Management Act of 1976.

The Fishing Vessel Owners' Association (FVOA) is a trade association that was formed in 1914 to represent hook and line fishermen from the State of Washington. The Association represents over 90 vessels. Those vessels range in style from small ice-type vessels to the large state-of-the-art freezer longline vessels.

The Fishing Vessel Owners' Association wishes to propose certain changes to the Magnuson Fishery Management Act of 1976, but first of all request that the Act be reauthorized by the Congress. The changes to the Act that we propose are as follows:

1. The Association proposes an addition to the Act that would provide for some mechanism to offset certain costs of management imposed on the fleets.

The North Pacific Council has taken a much needed and agressive management approach to the loss of management and resource assessment information that used to be collected from the foreign vessels by on-board U.S. observers. The Council has requested a high level of observers for the 1990 season to regain much needed resource and catch information. This cost will be paid by the individual vessel owners who are assigned observers. This cost could be as high as 7500 to 8000 dollars a month. The cost is very significant to smaller vessel operations and may represent 10 to 20% of gross monthly income for smaller vessels.

The Association proposes the following mechanisms for offsetting this cost. The FVOA proposes that each Council be given the choice to set up a regional trust fund. We further propose a fleet-wide

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assessment of 1/2 of 1% would be assessed as a raw fish tax (round weight equivalent) and paid to the fund annually. This would raise about 5 to 7 million dollars. The funds collected would be used to finance required observer and research programs for the area that funds are collected. Observer coverage is a necessity for any meaningful management and all vessel operations benefit from it, therefore all vessel operations landing product caught from the federal areas of responsibility should pay into the trust fund.

The following are some of the concerns that the longline industry has with unobserved domestic trawl activities.

(a) The primary concern of the longline industry is conservation. The concept of management used by the IPHC during the last ten (10) years has been one of "Annual Surplus Production." Commercial catches and incidental mortalities must be accounted for in order to accurately regulate the resource. Unregulated or unobserved trawl fishing, primarily bottom trawl, will provide no information to determine proper quota levels. Figure 23 illustrates a significant decrease in commercial harvest from 1965 to 1976. During this time the foreign fleets, unobserved and unregulated were present and causing mortalities far in excess of those contemplated.

(b) The economic and social impact of the downturn between 1965 and 1980 is burned deeply into longliners memories. There were significant political battles that were fought to gain observers and control of the foreign fleets. A repeat of the economic impacts that were experienced between 1965 to 1980 is a major concern of the industry. Figure 16 illustrates the reduced North American harvests. Due to the lack of international concern and response by foreign countries, 100% of the conservation was borne by the North American halibut fisherman in the form of reduced quotas.

The economic impact, at the ex-vessel value, between 1970 to 1984, was $440 million. This was the result of a foregone harvest of 334 million pounds between 1970 and 1985 to the North American fisherman.

(c) The longline industry is concerned about any trawl gear that is used on bottom. The Bering Sea seems to be significantly sand, mud and gravel. The Gulf of Alaska has areas, however, that have large areas of fan corals and kelp beds. The use of bottom trawls in these areas is a great concern due to habitat destruction.

(d) There is a concern that halibut in the 2.5 to 5 pound category being incidentally taken in the Bering Sea are being taken in such volumes that even with reduced directed harvest of adult fish, the resource will not be able to make the difference. There is a critical point when the incidental catch of juveniles collapses the resource.

This is one popular theory of why the directed halibut fishery did not experience an immediate drop in available adult fish when the foreign fleets entered the Bering Sea and Gulf of Alaska. Those fleets impacted the juveniles, more than the adult populations. The 2 to 4 year lag in time before the juveniles were to enter the directed fishery explains why the commercial halibut fleet experienced sharp reduction in CPUE four (4) years after the appearance of the foreign fleets.

(e) The basic geographic areas of concern for the halibut fleet are the areas described as 2H and Zone 1 in the Bering Sea. In the Gulf of Alaska, Portlock Bank, Albatrose Bank and the "W" grounds off of Yakutat are considered important halibut areas.

(f) Figure 20 shows how the incidental mortality of the Pacific Halibut was reduced by the foreign fleets even with increasing population of Halibut between 1978 to 1985. There is a great concern that we will have to live through this scenario one more time.

2. The North Pacific Council has responsibility to manage fishery resources in the Bering Sea. The Coast Guard at the June Council meeting reported that 179 foreign vessels were visually seen along the eastern edge of the Donut Hole. This pack line of foreign fishing vessels, in the Association's opinion, is conducting raiding forays into the Bering Sea, stealing our fishery resources (see chart attached).

The Eastern border of the "Donut Hole" is approximately 380 miles long. Approximately 3 hours sailing from this line is a very resource rich canyon called Zhemchug Canyon. The F.V.O.A. members now refer to the Eastern border of the "Donut Hole" as the "Zhemchug" line.

The current wording of the Act states as follows on enforcement in Section 311 (a):

"(a) RESPONSIBILITY. The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties."

The Act provides for the use of the Department of Defense to augment activity of the Coast Guard. We want the Congress to instruct the Navy to protect the eastern edge of the Donut Hole. This is a common sense approach. The Coast Guard was never envisioned to have to protect against these types of raids 200 miles from our coast line.

The Association would like to have the Committee reflect on what their response would be if foreign nations sent raiding parties to destroy the forests in Alaska, Washington or Oregon. Regardless of the Spotted Owl impact, the nation would be outraged at such an action. The same response is mandated when foreign vessels willingfully raid our fishery resources. The estimated loss of resource value to the United States may be as high as $100,000,000. We want the U.S. Navy's help. If this is too big of a job for the Navy, we will offer a couple of our halibut schooners as scout vessels.

3. The current Act prohibits any North Pacific Fishery Management Council meeting to be held outside of the State of Alaska. The NPFMC is the only Council in the Country where meetings are prohibited in the states where voting members of the Council are from. In the case of the NPFMC, meetings cannot be held in Washington or Oregon.

The justification to have meetings in Washington and Oregon are that over 400 longline vessel operations and crews from both these states find the costs prohibitive to attend meetings in Anchorage. The plane fare alone from Seattle to Anchorage runs $760.74 (tax included, normal coach). The extensive processing operations based in Washington and other gear types like crab and trawl interests warrant an amendment that would allow the public in Washington and Oregon to better interface with the North Pacific Council. We would estimate that the cost to Washington representatives at each Council meeting in Anchorage are around $175,000 in travel costs.

4. The Act currently provides for four (4) Council members from the State of Washington and Oregon. There are six (6) from Alaska plus the Regional Director who is from Juneau. The current representatives from Washington and Oregon are inadequate to properly reflect fairly all the financial, consumer and environmental concerns from these two states. There should be additional representation from the States of Washington and Oregon.

I would like to thank you for the opportunity to present our concerns and proposed amendments. I would be happy to answer any of your questions.

Very truly yours,

FISHING VESSEL OWNERS' ASSOCIATION

Robert D. Alverson
Manager

RDA:cb

attachments

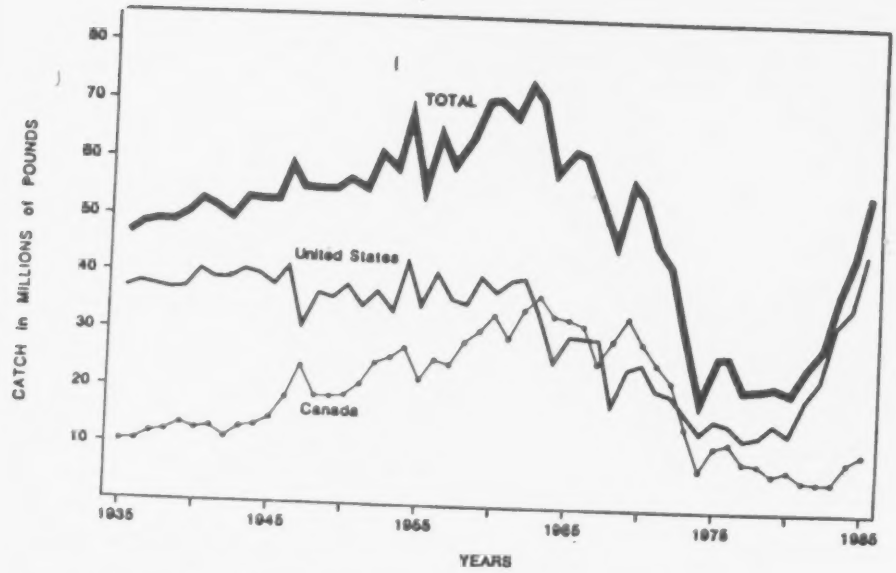

Figure 16. Total Canadian and United States catch of Pacific halibut, 1930-1985 (heads-off, eviscerated weight).

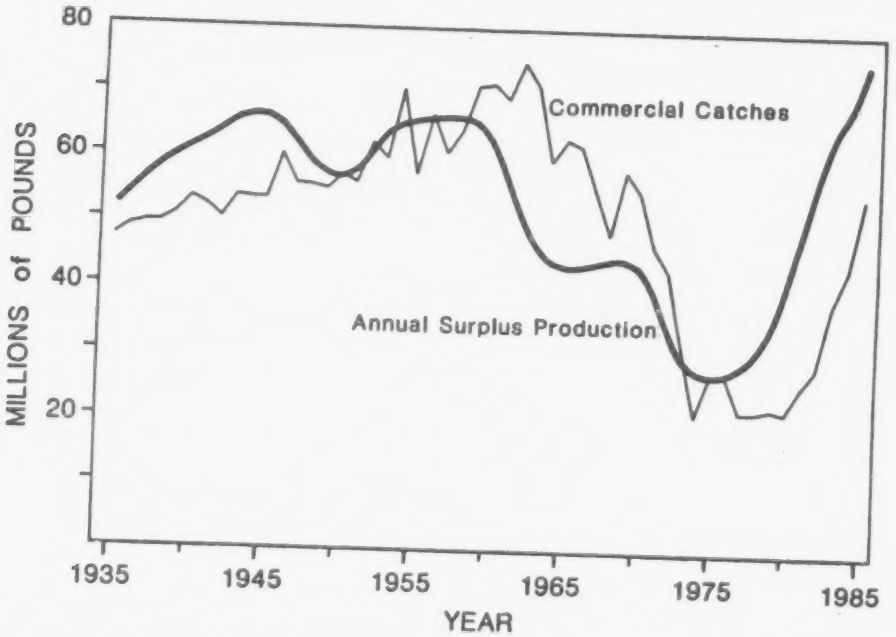

Figure 23. Annual surplus production and commercial catches of halibut for all regulatory areas.

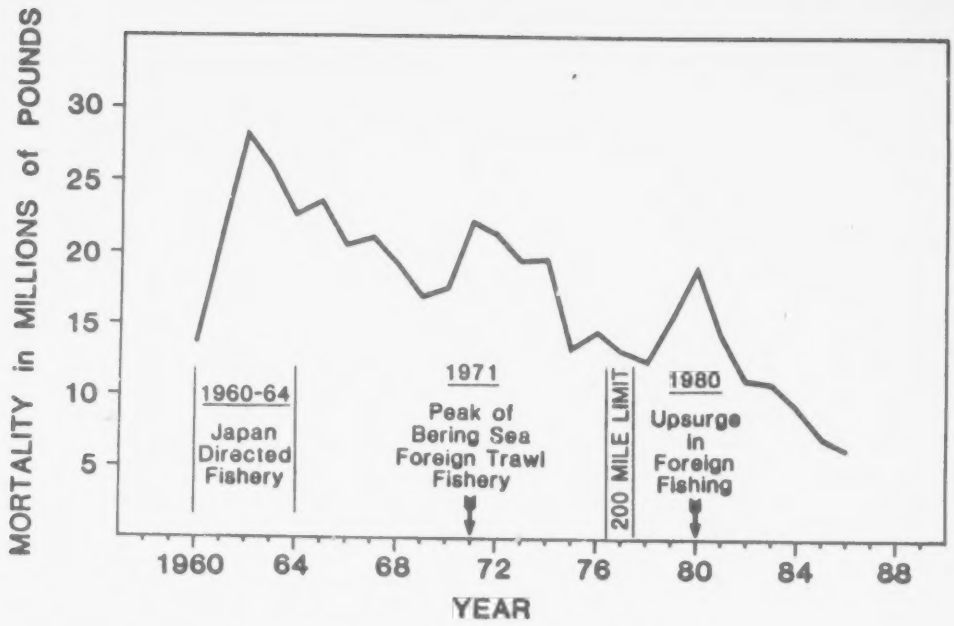

Figure 20. Historical trend in incidental mortality of Pacific halibut.

STATEMENT OF JOHN BRUCE, EXECUTIVE DIRECTOR, DEEP SEA FISHERMEN'S UNION OF THE PACIFIC

Mr. BRUCE. Mr. Chairman, my name is John Bruce. I'm a longline fisherman with 20 years experience in the Gulf of Alaska and the Washington/Oregon coast. At present I'm the executive director of the Deep Sea Fishermen's Union.

The Union was established in 1912 and at this time represents 260 active longline fishermen who are nonvessel owners and 45 life members who have retired. The Union is the only organization on the west coast representing deck hands in the fishing industry. Our contract with the Fishing Vessel Owners' Association is a collective bargaining agreement with a binding grievance procedure. We work together for political unity to voice our concerns on fishing issues. Our 40 vessels with union crews delivered approximately 16 million pounds of halibut and black cod in 1988.

On behalf of the Union I would like to thank this committee for the opportunity to express some of our concerns on the reauthorization process of the Magnuson Fishery Conservation and Management Act.

Basically I'm going to deal with three issues, the first one being conservation. Troll by-catch is a tremendous problem in the Bering Sea and the Gulf of Alaska. The argument that's been made that all groups have by-catch problems but the by-catch in the longline and pot fleet has very little economic impact on other fisheries, nor does our by-catch close other directed fisheries. The trawl by-catch needs have eliminated our directed black cod sablefish harvest in the Bering Sea for the past two years, for 1988 and 1989.

Conservation needs to be the yardstick that we measure our fishing activity with. We need to have hard factual data to make good fisheries management decisions. An observer program is the key to help eliminate greed and mistrust in our industry.

The Deep Sea Fishermen's Union endorses the North Pacific Fisheries Management Council's actions in June to make mandatory 100 percent observer coverage on all vessels 125 ft in length and longer.

And with that I would like to digress. I have a piece of V.C.R. tape that I would like the committee to view. This tape came into my possession this morning at 7:00 a.m., and this tape is one that has been made over a one-year period. It was made on a factory trawler and it deals with a by-catch problem that exists today.

These halibut that you see are coming down a chute onto the factory level of a factory trawler. These fish could have been taken up on the factory—up on the fish-catching level and discarded over the side alive. Some of the fish you will see coming down this chute are still alive. You will witness this crew member strike the halibut in the head and kill a halibut that is still alive. You will see this crew member gaff a halibut in the center of its body. This is a prohibited specie on this vessel. This fish should have gone over the side up on the fishing deck, but instead it's down on the factory level on this boat.

This is our concern. Our resource is being taken from us bit by bit with lower allocations and lower quotas because our resource is being removed in this method. The Halibut Commission deducts this type of activity from our quotas that we target on, and this is a grave concern to us.

This tape, as I mentioned, was taken over a one-year period. It's been condensed down to about a seven-minute tape. You're going to see maybe three or four minutes of it.

This is why we strongly endorse the actions of the Council to put mandatory observers on these boats. We have suspected for many years that this kind of activity has been going on, and this here documents what we hope is not going on in the entire factory trawl fleet. This is probably an extreme case. I don't know. I haven't been there, I haven't seen it, but I've seen this tape and this is not just one trip, this is many trips.

This tape was made as a promotional tape for this particular company, and this last scene here, there's about a 120-pound fish, perhaps, it—won't go through the grate. It's alive. This fish could have been picked up and thrown over that two-foot barrier there in the back and returned to the sea in live condition, but I'll let you witness what happens to that fish.

You'll also notice here at the end of this tape, these large halibut are in a checker. This one happens to be alive and he's going to get clubbed right here.

This just reiterates in black and white a concern that we have as longline fishermen for the need for an observer program. We agree with the Vessel Owner's Association that perhaps a one-half of one percent raw-fish tax could be deducted and put in a trust that the regional Council could administer and see that this kind of activity is witnessed and hopefully stopped.

While the tape is finishing up I'd just like to make one other point, if I might. This deals with the location of the Council meetings. The North Pacific Fisheries Management Council is the only regional Council that does not permit meetings in participating states other than Alaska. Perhaps some consideration might be given to people who harvest 85 percent of the resource managed by the North Pacific Management Council who are not Alaskan residents.

Washington state residents provide for much of the logistical, reprocess, financial backing and shore-based employee labor force in the Alaska region. Our organization invests in travel, hotel and other related industries to keep current on the agendas of the North Pacific Fisheries Management Council. I am sure that Washington state would welome the opportunity to share Northwest hospitality with our Alaskan fishing community friends.

It is called the North Pacific Council, not the Alaska Pacific Council.

Many of the same comments about investment in the industry such as fishing labor force, outfitting, logistical support, shipyard and maintenance facilities, can be made about the makeup of the personnel on the Council. With these factors in mind I do not believe it unreasonable to ask that consideration be given to adding another representative to the Council from Washington state.

Mr. Chairman, thank you again for the opportunity to appear before this committee.

Senator ADAMS. Thank you very much, Mr. Bruce, and thank you for your video. Very interesting.

Mr. BRUCE. I thought you might find that interesting.

[The statement follows:]

Testimony of John M. Bruce, DEEP SEA FISHERMEN'S UNION

Mr. Chairman:

My name is John M. Bruce, Executive Director of the Deep Sea Fishermen's Union of the Pacific (D.S.F.U.). The Union was established in 1912 and at this time, represents 260 active longline fishermen (non-vessel owners) and 45 life members who have retired. The Union is the only organization on the west coast representing deck hands in the fishing fleet. Our contract with the Seattle Fishing Vessel Owners' Association is a collective bargaining agreement with a binding grievance procedure. We work together for political unity to voice our concerns on fishing issues. Our 40 vessels with Union crews delivered approximately 16,070,480 pounds of halibut and blackcod in 1988.

On behalf of the Deep Sea Fishermen's Union of the Pacific, I would like to thank this committee for the opportunity to express some of our concerns on the reauthorization process of the Magnuson Fishery Conservation and Management Act.

My comments will be addressing three principle areas of concern to the members of the D.S.F.U.

CONSERVATION

From the inception of the Magnuson Act, the goal of fishery managers was the full Americanization of all fisheries inside our exclusive economic zone (EEZ). With this Americanization came industry demands for economic development opportunities. These demands were met and factory trawl and drag fleets were allowed to enter historical nursery grounds vital to the king crab and halibut fisheries resources. In December, 1988, a cap of 200,000 red king crab was established and approved by the North Pacific Fishery Management Council (NPFMC). We were counting on halibut protection with this cap in Zone 1 of the Bering Sea. As of this date, National Marine Fisheries Service (NMFS) has yet to close this zone to trawl or drag activity. Foreign fleets were never allowed in this nursery area, but we allow domestic fleets access. King crab fleets will not have a directed harvest in 1989 because of stock depletion. Our halibut biomass has been reduced by juvenile removals in the old Halibut Savings Area of the Bering Sea, by trawl and sole drag operations. The halibut quota has been reduced by 12 million pounds due to poor recruitment. These economic development demands need to be reconsidered. The health of the king crab and halibut stocks need priority consideration for preservation of these marine resources. One of the last great American marine fishery reserves is under assault. Additionally, the groundfish of the North Pacific also needs to be protected from the same fishing methods that destroyed the

fishery resources of the North Atlantic. The need for conservation and preservation as the primary management goal has never been more evident.

Trawl bycatch is a tremendous problem in the Bering Sea. The argument has been made that all gear groups have bycatch problems, but the bycatch in the longline and pot fleet has no economic impact on other fisheries nor does our bycatch close down other directed fisheries. The trawl bycatch needs have eliminated our directed blackcod (sablefish) harvest in the Bering Sea for the past two years (1988-1989). Conservation needs to be the yardstick that we measure our fishing activity with. We need to have hard factual data to make good fishery management decisions. An observer program is the key to help eliminate greed and mistrust in our industry. Recently, a report from Japan said that an excess of 25% above the 1988 blackcod quota allowed the U.S. fishermen, was in the distribution system in that country. Another accusation is that the needs of consumers for chicken halibut (under 20 pounds) in Japan were met before our first halibut opening in May. Where did this blackcod and halibut come from? A data gathering and observer program would do one of two things: (1) stop this illegal harvest (2) find out who is responsible for this piracy.

The Deep Sea Fishermen's Union endorses the N.P.F.M.C. actions to make mandatory 100% observer coverage on all vessels 125 feet in length and longer. We believe the cost should come from all segments of the fish harvesting community. A raw fish

tax should be put in trust from which the Council can manage this observer system. All revenues should be kept in this region.

F.M.P. AMENDMENT PROCEDURE

A need for review of the North Pacific Fishery Management Council and the National Marine Fisheries Service F.M.P. Amendment process should be undertaken. Recent technical data was submitted to the Council at the last moment, after the public comment period had ended, which did not allow for informed adequate public review. I believe this could have biased the Councils' decision making process. All industry segments should have equal access and abide by time restraints established by the Council process.

COUNCIL MEETING LOCATIONS

The North Pacific Fishery Management Council is the only regional council that does not permit meetings in participating states other than Alaska. Perhaps some consideration might be given to the people who harvest 85% of the resources managed by the North Pacific Fishery Management Council who are not Alaska residents. Washington state residents provide for much of the logistical, reprocessing, financial backing and shorebased employee labor force in the Alaska region. Our organization invests in travel, hotel and other related industries to keep current on NPFMC agendas. I am sure Washington state would welcome the opportunity to share some Northwest hospitality

with our Alaskan friends. It is called the North Pacific, not the Alaska Pacific Council.

Many of the same comments about investment in the industry such as; fishing labor force, outfitting, logistical support, shipyard and maintenance facilities, can be made about the makeup of personnel on the Council. With these factors in mind, I do not believe it unreasonable to ask that consideration be given to adding another representative to the Council from Washington state.

Again, thank you for the opportunity to appear before the Committee. I would be pleased to respond to any questions.

Senator ADAMS. Senator Packwood?

Senator PACKWOOD. Mr. Plesha, let me ask you—I'm going to premise my question—again, I've never met anybody who uses resources, whether they're trees or fish, who claims that they're anything other than a conservationist and they don't want it overdone. I don't care who they represent. They won't say we don't give a damn about the resource.

So, assuming that the resource was adequately managed, so that you had adequate conservation, is there an inherent superiority to processing fish on shore as opposed to on ship?

Mr. PLESHA. My position is that there is greater utilization of the fishery resource by processors located on shore than there is at sea. Shore-based plants have the space available, for example, to have meal plants and to utilize by-catch species as they come in. Shore-plants can utilize cod when they are targeting pollock, where often factory trawlers don't have the space to utilize bycatch resources.

Senator PACKWOOD. So as part of the conservation you're better off doing the processing on shore because you can better utilize the resource—it's better on shore, is that it?

Mr. PLESHA. You can more fully utilize fishery resources. It's a judgement call as to whether that's better or not. I perceive it as being better, but certainly it's more full utilization of valuable fish protein.

Senator PACKWOOD. Is the sociological argument that if you don't do your processing on shore lots and lots of small fishing towns are simply going to wither?

Mr. PLESHA. Obviously that's a concern in Alaska now. But this factory trawler fleet, through no fault of any one person, is growing at incredible rates. In fact, it will affect fisheries in other areas of the United States.

Senator PACKWOOD. Is there something inherently evil or sinister about people that own these factory processing ships?

Mr. PLESHA. Certainly not. There are some questions, to be candid about it, with regard to the motivations of both the on-shore and off-shore ownership in the processing sector. For example, there are subsidies that are given in northern European shipyards to build factory vessels to keep the shipyards busy. These shipyard subsidies are causing overcapitalization in the North Pacific. Foreign entities also are increasing their investment in processing capacity merely to maintain market shares. They are not concerned with a profitable rate of return on the investment. That investment has a chaotic effect on the industry.

Senator PACKWOOD. Well, then, the last question to you, if then we have a stituation where everyone cannot catch all of the fish they want and we have to allocate somehow, are we better off to allocate them to those people who will fish and take the fish to shore to process rather than on board because of, one, the sociological impact on towns, and two, the on-shore processor will more fully utilize the product?

Mr. PIESHA. Yes, but that is a blanket statement. There is obviously a need for the factory trawler vessels. They have the ability to utilize resources from areas that a shore-based plant couldn't, and I'm not certainly suggesting that factory trawlers should be phased out.

Senator PACKWOOD. Then what is it you're suggesting?

Mr. PLESHA. Well, what we're concerned about is the destructive ability of fishing in a very localized area around a shore plant and causing depletion of the resource around the shore plant. The one limitation on the shore plant's efficiency is that it can't take, in the case of pollock anyway, fish from a long distance away because pollock are very perishable. Pollock have to be harvested and brought back to the shore plant within a 48-hour period and therefore you have a range limitation that a factory trawler doesn't have to worry about.

Senator PACKWOOD. Then what you are saying is that given that situation you would prefer a shore-based fishing boat and a shore-based processor?

Mr. PLESHA. I think you should protect shorebased processors.

Senator PACKWOOD. Well, how do you protect him?

Mr. PLESHA. Well, in various ways, but on of the ways that we've conceived of is basically an area around shore plants in which factory trawlers are prohibited from operating.

Senator PACKWOOD. That's an allocation situation, isn't it?

Mr. PLESHA. Well, it has allocative impacts, no doubt about it.

Senator PACKWOOD. Well, when you say to one group you can't fish here, that's sort of an allocation, isn't it?

Mr. PLESHA. Well, obviously it is. Except that there's still a resource available in other areas for factory trawlers to fish and we don't distinguish the total quota between the two sectors. So as soon as the overall pollock quota is gone on-shore and at-sea processing both shut down. You can do it different ways. Fishery managers can determine we need to protect on-shore processors by an allocation of 25 percent of the resource to shore-based processors. There are various ways you can protect shorebased operations.

Senator PACKWOOD. Mr. Bruce, a quick question to you. You seem to have organized reasonably well the longline fishing boats. Do you organize the fish processing boats, too?

Mr. BRUCE. Negative.

Senator PACKWOOD. Are they organized?

Mr. BRUCE. Not at all. Maybe to go a little bit deeper into that, I was approached six months ago from a group of employees off a factory trawler that were extremely upset about the conditions in which they were working and the care with which they were handled, as far as employment was concerned and health and welfare, and our organization just simply isn't big enough to handle the legal problems that would evolve from starting to represent those people.

Senator PACKWOOD. To date, as far as you know, no one has tried to organize the vessels?

Mr. BRUCE. With my discussions with various labor organizations, no.

Senator PACKWOOD. Thank you, Mr. Chairman.

Senator ADAMS. Thank you, Senator Packwood.

Senator Gorton?

Senator GORTON. Bob, I'd like you to expand a little bit on your concern for what we are losing along that eastern rim of the Donut Hole. You mentioned that—first, I'd like you to give me the best estimate that you have as to what the loss is and how it compares

with the overall harvesting. Secondly, you made one specific suggestion of attempting to use the Navy in this connection, which sounds appealing. I can imagine the response that we'll get from the Navy when we ask them whether or not they want to engage in this kind of activity.

What other alternatives are there? How agressively do you think we ought to be pursuing with the Soviet Union and with others just simply closing off the Donut Hole entirely. If we were able to accomplish that, that would take care of almost all of the enforcement problems, would it not?

Mr. ALVERSON. Mr. Gorton, Mr. Chairman, on the first question as to an anticipated loss I've put a conservative figure in my written testimony. Approximately three/four years ago when the foreign fleets began operation in the Donut Hole the halibut fishery and the shore-based plants primarily that we delivered to noticed a complete elimination of the small halibut market that has been a tradition in Japan. Approximately 10 to 15 million pounds of the halibut caught are of a size that are used in the shirimi—the raw fish market there. And when they showed up that market completely closed to us. And we anticipate that these—this is coincidental with the movement of the fleets into the Donut Hole and the raiding that Sam Yelle witnessed and took before this Council——

Senator GORTON. Those were our fish, in other words?

Mr. ALVERSON. Exactly. We estimate that on just the halibut we're losing somewhere around 20 to 25 million dollars of resource in market and investment. We believe that there's probably another amount equal to that in terms of black cod and turbot and a high value in the rockfish species along that Continental Shelf, and probably three times that in the pollock business being taken out of that area. So the industry and the resource are paying a terrific cost, the U.S. industry and resource, in our opinion, are paying at least a hundred million and better costs.

In terms of using the Navy, Section 311 does allow for the use of the Navy. I believe one good bust is going to break the back of these operations. Right now we were informed at the last Council meeting the Coast Guard has one cutter that has a 14-day capacity. That is used out of Kodiak and in the Gulf of Alaska. They have another vessel that has a 35-day capacity and another one that has a 45-day capacity, and those are the two used in the Bering Sea, and they rotate.

For them, it's like shooting ducks, you know. They go up there and they grab a boat and they go up and they grab another boat, and there's 179 to 200 of them and they got to have a chance to grab, so it's pretty good odds if you're a foreign vessel. You know, they have a tremendous amount of overflights, but it's a little bit difficult to put a tow rope on a plane to these vessels down below.

As for the Soviets, the last Council meeting the Coast Guard busted two Soviet vessels for the same infractions. I'm not sure what the motives of the Soviets are anymore in that area. They are conducting fishing operations and they may be the same motives as the Koreans and the Japanese in that area.

A complete lock down or moratorium between the Soviets and ourselves I think is preferable, but the international laws that the

Soviets have signed on to the U.S. treaties prohibit them from taking that type of unilateral or bilateral action with the United States, and my discussions with the Soviets is that they're going to take a more international approach to it, which means we are probably three to five years down the road from getting anything substantial in terms of an international control of that Donut Hole.

Mr. GORTON. Assuming no change in the legal status of the Donut Hole, what is the relative value of more ships as against the change in the State Department rules in seeing them engage in activities? Let's just say we change that State Department rule but no additional enforcement ships. How much good would that do as against a few more ships in the——

Mr. ALVERSON. If you changed the rules that would allow the Coast Guard to board any boat that looked like a fishing vessel that's in our area, that would do a tremendous amount without adding a lot of cost to the whole Coast Guard and Navy program. But, you know, we have vessels up and down the chain and we see the Navy going in an out of up there and they're got to be knowing what's going on up there and, you know, if they're having a problem with it we'll donate a couple halibut boats for scout ships for them.

Senator ADAMS. I have two questions. Were any of you in Moscow at the time of the most recent negotiations with the Russians on the Donut Hole?

[No response.]

Senator ADAMS. Because we did have a series of negotiations in which we were trying to determine whether or not we could close the area entirely. You are correct in your assessment that the Russians have been reluctant to close international waters. But of course if patrolled by each nation, their boundaries and ours, are the only two that bound that particular stretch.

I have the same question—I'll approach it a little differently, Mr. Alverson—that Senator Gorton had. We've dealt with the State Department on this before and the right of passage is based on the concept that our 200-mile limit is an economic zone and not considered a strategic zone. That's one of the problems the Navy has had with it. It's one of the problems the Coast Guard has had.

Did I hear you answer that you favor and believe that we might pursue the course of limiting the right of transit by make of vessel?

Mr. ALVERSON. Mr. Chairman, by make——

Senator ADAMS. The way we used to do this when we had foreign fishing was that we permitted them. I'm not saying it can't be done. I'm trying to get information from you as to how we might right this. When we allocated fish to the Japanese and the Koreans in our EEZ, they all had permits and we had observers onboard. We could pick up information and we could work with those vessels. There are essentially foreign vessels allowed to fish in there now and permits are not being authorized. Thus, we've got no grasp on a vessel's activities I'm trying to get from you what you say would be a way of requiring a transponder, requiring something on a vessel that we haven't permitted in the economic zone.

Mr. ALVERSON. Senator Adams, if the definition of the foreign fishing vessel is adhered to under the Magnuson Act, as written, and basically that says if it's got fishing gear on board, if it has

processing gear on board, it's a fishing vessel, and under that definition it requires a permit, or can be required to have a permit to be anywhere in our EEZ. And It's sort of a catch-22. If you——

Senator ADAMS. All right. So now what you're suggesting to cut through the problem is that we go to the State Department, or we approach it as nonpermitted fishing vessels——

Mr. ALVERSON. Exactly.

Senator ADAMS [continuing]. Even through we have no TALFF or allocation for them?

Mr. ALVERSON. That makes it more suspicious why they're there.

What's happening is, in our opinion, these vessels are slipping under a legitimate military concern of freedom of transit, and trade issues. These vessels are fishing vessels, processing vessels, and they're not transiting through to go to the west coast of the United States, but——

Senator ADAMS. I understand. What I guess I'm really asking you is— and any of the rest of you can comment—can we require permits of foreign vessels in our economic zone when we have no fishing allowed for those vessels?

Mr. ALVERSON. They way I read the law, the answer is yes, if you go by the definition of a foreign fishing vessel in the Magnuson Act.

Senator ADAMS. All right. Now, I had another question. You testified, I believe, Mr. Plesha, and you have listed several factory vessels, that there was construction in European yards. Now, Senator Gorton and I have been working the Jones Act for 30 years, and I'm not certain what you're saying to me, because we do have provisions that prohibit foreign-built vessels being used in U.S. trade. Would you describe to me how the European yards are impacting operations of either out factor trawlers or other fishing vessels in the exclusive economic zone?

Mr. PLESHA. I'll try to. In the case of my claiming that these vessels are being built in foreign yards, that's inaccurate. They're actually being rebuilt in foreign yards. They are taking existing——

Senator ADAMS. So you think they are violating the law by taking an existing vessel that is permitted and rebuilding it?

Mr. FLESHA. I can't claim that they're violating the law because the law allows for vessels to be rebuilt abroad.

Senator ADAMS. Well, it says you can repair and do necessary construction but you can't just do complete violence to the Jones Act and build it from scratch.

Mr. PLESHA. Right

Senator ADAMS. But what you're talking about is a rebuild or repair job in European yards?

Mr. PLESHA. Yes, but in fact the Coast Guard has interpreted the definition of a rebuild and a new build so that in fact, you can acquire a U.S.-hulled, U.S.-documented, U.S.-built vessels, take it overseas and rebuild it using only marginal pieces of the original hull and maintain the vessel's U.S. documentation privileges.

Senator ADAMS. That's the old DC–3 game. You jack up the certificate and rebuild the airplane. Is that what you're saying is happening?

Mr. PLESHA. I'm not familiar with that——

Senator ADAMS. That's what they did after World War II.

Mr. PLESHA. Anyway, it's common practice and it is continuing to go on.

Senator ADAMS. Senator Packwood, do you have any more question?

Senator PACKWOOD. No more questions, thank you.

Senator ADAMS. Senator Gorton?

Senator GORTON. No more.

Senator ADAMS. Thank you all very much. You were excellent and we appreciate your testimony.

The third panel this morning is Dr. Dayton Lee Alverson, Managing Partner, Natural Resources Consultants, Mr. Alan Reichman, North Pacific Ocean Econology Coordinator, Greenpeace USA; and Mr. Guy N. Thornburgh, Executive Director, Pacific Marine Fisheries Commission.

I see we've got four panelists and I've called three, so if the fourth person will introduce himself, we will welcome you all.

Dr. BEVAN. I'm Don Bevan, accompanying Dr. Alverson,

Senator ADAMS. I know Dr. Bevan, and I'm glad you're accompanying him. If you would please follow the rules as we have explained them before, we'd be most pleased to have your testimony.

STATEMENT OF DAYTON LEE ALVERSON, MANAGING PARTNER, NATURAL RESOURCES CONSULTANTS

Dr. ALVERSON. Thank you, Mr. Chairman, members of the committee, I'm pleased to discuss the reauthorization of the Magnuson Fishery Conservation Act with you today, and obviously by now you're heard about everthing that one might say. I'll try to make my comments short.

Both Don and I would have liked to have our intervention be a resounding vote of confidence in the FCMA and as you might suspect that—in terms of our evaluation of its performance over the past decade, there's both goods news and bad news.

You've heard the good news: There's a tremendous building of the U.S. fleet, particularly in the Pacific Northwest, with a significant economic contribution to the local area.

You've also heard the bad news that we have responded in such an effective way that we've now over capitalized every sector of the fishing industry in the Pacific Northwest, particularly in the area of the Gulf of Alaska and in the Bering Sea.

The problems of overfishing I'm sure you've heard a number of times, and they're well known particuarly in terms of the economic consequences of over capitalized. I would like to point out that those are the more obvious problems. The more probably sinister aspects of overcapitalization, is that there is significant biological waste as a result of the by-catch problem. This problem increases tremendously as the overcapitalization increase and each fleet gets in the position of being a contributer to bycatch.

I'd like to also make it very clear to this committee that although one of the past speakers said it was a trawl problem. It is in reality a fishing industry problem.

It is very significant in sectors of the line fishery, although not in the halibut fleet, but certainly in the black cod and the cod fish-

ery, it gets very significant in the crab fishery, it is also significant in salmon shrimp fisheries.

We are also told there are problems of safety at sea that arise when your season's short and everybody's got to get their catch in a hurry. They disregard the weather conditions, they disregard heavy storms because everybody must fish every minute possible in order to maximize the catch.

So there are these sorts of problems, and in addition the deterioration of the product where you have everything produced in a very short time frame and frozen up and then into the freezer for the entire year. So there are a range of problems that result from overcapitalization beyond just the economic impacts on the users themselves.

Don and I looked at the conservation issues and with the exception of the Pacific Northwest there are major overfishing problems in New England, the Middle Atlantic and the southeast portion of the United States that have occurred along with major overcapitalization problems all over the country.

Mr. Chairman, fishermen and shoreside or at-sea processors, although they may influence, do not establish fisheries management regimes and in my view can't be held responsible for their failures. The continued growth and expansion of the fisheries to the level of massive overcapitalization results from management regimes and state and federal policies which both foster and encourage overcapitalization that continues to exist even to this day, even though we may have strongly overcapitalized a fishery.

I'd like to remind you only a few years ago the state and fishery managers, federal managers, members of Congress, championed policies which would promote the growth of our fisheries. Fishermen were given the C.C.F. funds to help reinvest. Government low-interest funds were made available. S–K funds were made available to promote the growth of these of the Pacific Northwest. These are being used right today and continue to foster increased growth in these fisheries. Nobody has stepped in to turn off the spigot. Why are we making low-interest loans available and promoting the development of these fisheries when we have a major overcapitalization problem?

Mr. Chairman, in our view, both Don and I, we've looked at this fairly carefully. We've watched NOAA since its inception. Many of the problems we have now can be traced to NOAA's inability and unwillingness to provide the in-depth guidance and overview of management plans we both view as anticipated in the Act. I do agree with Senator Gorton. I think part of the problem is funding but I think part of it is attitude. An attitude if the Councils do it, it's all right. I don't think that was the intent of the Act.

I don't believe Congress ever expected that NOAA would sit by and see overfishing occur and not step in and require new management plans that face these issues, I also quite agree with the chairman that when we put this Act together we did not want government to get involved in the competitive aspects of the different sectors of the industry, but we made specific provision for limiting total effort. However, nobody stepped into this situation one or two years ago when everybody here knew that overcapitalization was going, and said we better put a halt to this. Why didn't NOAA tell

the financial community the risks involved? Why didn't they turn off the low-interest loans? Why didn't they tell the Councils you better step into a limited entry or a total-effort limitation program? It's in their mandate of revisions.

You have our full text with its recommendations. We think that—Congress should reemphasize to NOAA that it is their mandate to be a caretaker of the Act. They ultimately are the steward of the Act and the national standards. It is clear in the Act that NOAA shall provide the Councils with advice and counselling on the issues of effective use of the resource and conservation. I would guess that they have not sent one such recommendation in recent years other than procedural recommendations.

Congress should require that the various areas of the military assist the United States Coast Guard and the NMFS in enforcement, and I don't mean in the active enforcement of the regulations, but in the transfer of intelligence information on fishing a vessel distributor. They have that capacity. It's being done in other countries and I think that would be helpful to our National Marine Fisheries Service and to the Coast Guard.

We, along with everybody here that spoke today, think a comprehensive observer program is an absolute necessity for all fisheries, not those just over 125 feet. There's tremendous by-catch problems in these other vessels. The observer program should be consistent with scientific needs.

Congress should remove the Council's authority to alter the Acceptable Biological Catch (ABC) and this is a scientific statement of what the stocks may yield. It should not be altered. They can alter the O.Y. in any manner they want to achieve catches that are above or below the Act, but they don't have to tamper with the scientific findings.

Council members should not be able to receive fees or other funds from groups that they did not originally represent. At the current time an individual can go on a Council and then become a consultant to industry members that he or she is required to manage. It has occurred, taking funds from people that are looking for decisions on a Council level.

Further, I think a long-term look is needed into the management of the environment, marine mammals, and fish. We may need a management regime that ultimately looks at the broader perspective and brings these various dimensions into a single management process.

Congress should seek additional funding, and we're very strong on this, for NOAA to carry out its expanded mandate. Its mandates have expanded, its budget has been reduced and I realize the austerity in government, but we think there's some need to reexamine the needs of an industry that's now worth 3 billion dollars and making major contributions in terms of taxes.

Finally, there's the various other issues, Mr. Chairman, that have been brought up by various other speakers regarding our needs to look at the international problems, the Donut Issue, the high seas gill net issues. We're strongly pushing the formation of PICES to get a better scientific peer group in the North Pacific Ocean, and that's outside the current mandate of the MFCMA but is an allied issue.

Thank you, Mr. Chairman.
Senator ADAMS. Thank you very much, Dr. Alverson.
[The statement follows:]

Testimony of

D. Lee Alverson, Ph.D.
Managing Partner, Natural Resources Consultants, and
Donald Bevan, Ph.D.
Professor Emeritus, College of Ocean and Fishery Sciences,
University of Washington

Mr. Chairman, Senator Gorton, and Senator Packwood:

I am Dr. Lee Alverson and I am presenting joint testimony for Dr. Bevan and myself. It is a distinct pleasure to testify before this subcommittee and express our views on the MFCMA and reauthorization of the Act.

Mr. Chairman, as you know, we, as well as many others from the Pacific Northwest and Alaska, were strong supporters of passage of the MFCMA in 1976 and helped to formulate and craft various aspects of the Act. In our view, the Act constitutes the single most important event in U.S. fishery policy development. The MFCMA identifies specific conservation, development and resource allocation goals, and national standards to serve as criteria in achieving the Act's goals and objectives.

We would have liked our introduction to be a resounding vote of confidence in the performance of the U.S. fishing industry and government management since the Act's implementation. But, as you might expect, there is both good news and bad news.

The good news is that in terms of Americanization of the U.S. Fishery Conservation Zone (FCZ) and the recently constituted U.S. Exclusive Economic Zone (EEZ), the Act's access priorities have served as a catalyst to the development of both the U.S. harvesting and processing sectors. Foreign fishing and, for the most part, processing off the U.S. coasts have ceased and have been replaced by U.S. counterparts. Fishery development in the Pacific Northwest and Alaska to date must be considered one of the great success stories in U.S. fisheries.

At the beginning of the 1980s, U.S. fisheries in and off Alaska were dominated by the traditional high value salmon and crab operations. The only U.S. high seas groundfish fishery of any significance was the halibut line fishery, producing a paltry 12,006 metric tons a year. The extensive groundfish resources of the region--about 2.0 million metric tons--were being harvested largely by Japanese, Soviet, and Korean fishermen.

The major concerns of U.S. fishery managers working with the resources harvested in the FCZ were focussed on limiting the impacts of foreign fisheries on traditional U.S. fisheries. The efforts of U.S. fishermen and processors were largely dedicated to finding an economic or political solution to eliminate foreign fisheries and replace them with U.S. counterparts. Their goal was full Americanization of the EEZ off the Pacific Northwest and Alaska.

By the late 1980s, the traditional U.S. salmon, crab, and halibut fisheries of the region had been augmented by a U.S. high seas trawl and line fleet that harvests all of the available 2.0 million metric tons of groundfish in the region. We are now processing most of the fish caught from the 3-200 mile zone. A domestic industry that was nonexistent a decade ago will generate annual sales in excess of 1.5 billion dollars, almost one-half of the nation's total of 3.5 billion dollars.

The bad news is that we have overcapitalized many elements of this fishery. By 1990 we will have at least 52 factory trawlers (including six motherships), 140 catcher trawlers, 20 freezer longliners, and over 1,500 catcher longliners in the fleet. By then we will have significantly overcapitalized every sector of the catcher fleets. Line fishermen are at odds with trawl fishermen over resource allocations. Crab, salmon, and halibut fisheries claim that incidental catches by trawlers are severely reducing their harvesting opportunities. Inshore fishermen are disturbed over the escalating levels of offshore fishing. Alaska's fishermen are unhappy with the intrusion of distant water fishermen from Oregon and Washington. Washington- and Oregon-based fishermen who have largely capitalized the fishery are worried that politics will erode their gains. Shortened seasons, by-catch limitations, gear restrictions, and area restrictions have become integral components of management of a fishery that was nonexistent only a few years ago. And all of these measures operate, directly or indirectly, to increase fishing costs. Add to all this a growing international fishery adjacent to the U.S. EEZ in the Bering Sea on stocks considered to be a transboundary resource indigenous to the U.S. 200-mile zone, and we have a camera snapshot of Northeast Pacific whitefish problems.

The scenario sketched out above is, of course, not unique to the Pacific Northwest and Alaska, and problems of overcapitalization are epidemic throughout many U.S. fisheries. The economic consequences of overcapitalization are well known. In the Pacific Northwest it is likely to result in increasing competition for available markets, growing inter-fleet

conflicts for available resources, escalating inter-fleet and inter-group conflicts, and dissipation of profits as the gross value of the catch is shared among more and more fishermen.

These are the more obvious problems of overcapitalization of the groundfish fisheries of the Pacific Northwest and Alaska. However, the potential economic woes of the fishing industry may be equaled by (1) the biological losses resulting from by-catch wastes which are becoming increasingly rampant in all high seas fisheries, (2) growing safety problems of fleets pressured to get their share of the catch, regardless of weather conditions, and (3) the deterioration of product quality which results from short-term pulse harvests followed by long periods of cold storage. Thus, although the Act must receive high marks for establishing an environment conducive to fishery development, management under the Act has not promoted efficiency in the utilization of fishery resources and will result in large monetary losses to many of the present participants. A continuation of the current trend to increase inefficiency in the fisheries will guarantee that the largest economic boom in the history of U.S. fisheries will be followed by its biggest bust.

In regard to achieving the Act's conservation goals, Mr. William Gordon, past Director of the National Marine Fisheries Service, has recently pointed out that overfishing problems throughout the U.S. have been far worse since the implementation of the MFCMA than they were prior to the Act's passage. The scorecard in achieving this essential goal of the Act has been slightly less than dismal.

The obvious questions are: Does the Act need substantial overhaul and modification? Are managers handicapped from a lack of funding? Or are other factors the root of our current problems?

Mr. Chairman, we were strong supporters of the Act when it was crafted and passed in 1976. Further, we are convinced the Act's objectives and goals and the institutional arrangements are basically sound, although more fine tuning is in order. Why, then, do we find ourselves in the midst of dealing with severe conservation and overcapitalization problems? Why have we diminished the productivity of our fisheries, fueled inter-regional and inter-gear conflicts, and promoted biological waste?

I'm sure you have heard that in the Pacific Northwest and Alaska the fault lies in the rapid expansion of the factory trawler fleet which has led to major overcapitalization of the groundfish industry, or perhaps you have heard that it is that greed of shoreside processors who desire to be the benefactors of marketing opportunities developed by the joint venture and factory trawler fleets. But it must be blatantly obvious that overcapitalization of the fisheries of this region has occurred in every sector (salmon, crab, halibut, and now groundfish) regardless of whether the catch was processed at sea or on shore.

Mr. Chairman, fishermen and shoreside and/or at-sea processors, although they may influence, do not establish fishery management regimes nor are they responsible for the consequences of the regimes' failure. The continual growth and expansion of the fisheries to levels of massive overcapitalization results from management regimes and state and federal fisheries policies which both foster and encourage overcapitalization and economic disruptions which follow.

In this respect, it is perhaps pertinent to recall that only a few years ago fishery managers, state and federal officials, and members of Congress championed policies which would promote growth and Americanization of the groundfish fisheries off Alaska. Fishermen reinvested CCF funds to build larger and more efficient at-sea catcher and processor vessels. Government (NOAA) low-interest loans were and are still available for further expansion. Saltonstall-Kennedy funds were used to conduct studies and experiments to enhance the competitive position of U.S. fishermen and processors. Fisheries development foundations gave and continue to give priority to development of whitefish harvest and marketing strategies. Now that we have achieved our goals--in spades--we are scrambling to find means to deal with growing inter-regional and inter-gear conflicts. We are considering disenfranchising sea-based processors in favor of the shore-based processors.

The impending overcapitalization of the Pacific Northwest groundfish fishery did not come as a surprise to fishermen, processors, fishery scientists, and managers, but the Council, whose constituency largely opposed limited entry, was reluctant to deal with the issue and when it did consider the matter could not muster the courage to pass even a moratorium.

Nevertheless, the Councils are advisory bodies, and the Act clearly identifies the Secretary of Commerce as the steward of the Act and NOAA as the responsible government agency to ensure that fishery resources are not overfished and that management measures are consistent with the national standard designed to promote efficiency in the utilization of the fishery resources. Mr. Chairman, we believe it is clear that the Secretary of Commerce is responsible for the legality, quality, and adequacy of fishery management plans.

If overfishing is as bad as noted by Mr. Gordon, where does the fault lie? If we have major overcapitalization of the groundfish fisheries off Alaska, with accompanying large biological waste, where does the fault lie? What leadership, guidance, or action did NOAA take to prevent overcapitalization of the fishery? They must have been acutely aware of the problem for several years. Mr. Chairman, in our view, many of the problems we now face can be traced to NOAA's inability and unwillingness to provide the in-depth guidance and overview of management plans we believe the Act anticipated. NOAA's leadership has in the past few years made it clear that it did not wish to intervene in the Council's business. We recognize

that Councils need the independence to develop their own sets of recommendations for regional management plans. Nevertheless, the Act clearly sees NOAA as the guardian of the Act's principals and goals. We do not believe Congress expected NOAA to avoid dealing with obvious overfishing problems nor to allow fisheries to develop in an unorderly, economically inefficient, and wasteful manner. From many observers' viewpoints, the fox is guarding the chicken coop, but we do not believe this is true. The guardian of the chicken coop gate is still NOAA, but the guard has fallen asleep.

In addition, there are problems associated with the MFCMA that may be traced to inadequate funding for the conduct of research activities and the monitoring and enforcement of fisheries plans. This situation has been aggravated by the extensive growth and complexity of U.S. domestic fisheries, added NOAA responsibilities as the relate to conservation goals for marine mammals, and a deterioration in the historical database used in fisheries management which has resulted from loss of information provided by observers on foreign fishing vessels and absence of such information from U.S.-based fisheries. It is somewhat ironic that the fisheries off Alaska will soon be fully Americanized, with significant economic benefits to the U.S. in terms of income, jobs, and contribution to the federal tax base, while the available funds to conduct research and establish information retrieval will only be a fraction of that available when the fishery was totally foreign.

Our suggestions to the Committee to address the above-noted problems are as follows:

1. NOAA needs to become much more aggressive in its role as steward of the nation's fishery resources and in ensuring the basic tenants of the Act's goals and national standards are adhered to. With the growing inter-gear and inter-regional conflicts that are likely to arise out of increasing overcapitalization of fisheries, NOAA, in concert with Congress, should establish clear criteria and documentation procedures to ensure that resource allocation is consistent with the best interests of the nation as a whole. We believe that Congress should clearly advise NOAA that its mandate cannot be successfully met if it does not become an active partner in the management process. We are convinced that an aggressive NOAA role will better serve the nation's conservation and rational-use goals than its current laissez-faire attitude. No change in legislation is needed to bring this about, but a reaffirmation of congressional intent may be needed to reactivate NOAA.

2. Congress should require that various arms of the military assist the USCG and the NMFS in enforcement activities through an active program of information transfer regarding the distribution and geographic position of both foreign and domestic fishing vessel operations on the high seas adjacent to our nation. Transponders should be required of all vessels.

foreign and domestic, in the interest of vessel safety and to provide management information.

3. A comprehensive observer program should be established to collect scientific and statistical information on fisheries, marine mammals, and marine debris for all high seas fishing fleets. The level of observation should be adequate to acquire reliable and usable scientific data, and the cost of such a program should be borne in part by the government and in part by all elements of the U.S. fishing industry.

4. Congress should remove the Council's authority to alter the acceptable biological catches or maximum sustainable yields established by scientists. The record of such scientific findings should be unaltered. The Councils should, however, retain their current ability to establish Optimum Yield (OY) or Total Allowable Catch (TAC) levels which are higher or lower than the Allowable Biological Catch (ABC) or Maximum Sustainable Yield (MSY) values if the Councils' deviations are properly documented.

5. Council members should not be eligible to receive consulting fees or other funds from clients or constituent groups whom they do not represent at the time of their appointments.

6. A long-term goal of Congress should be to re-evaluate the nation's overall commitment to the ocean's living resources, and the National Ocean Policy Study should establish a small panel of experts to re-examine the current MFCMA in light of the expanding responsibilities of government in the areas of ocean and living resources and environmental management. Current multiple-use conflicts between fishing, conservation, and environmental groups arise out of conflicting sets of laws and interests of various advisory groups. The panel should examine and compare management and allocation policies in other natural resources, such as minerals, timber, oil, and lands, to see if there are lessons to be learned that may be useful in the fisheries. The panel should examine whether a more comprehensive institutional arrangement is needed to deal with the more complex issues confronting environmental and living resources management. The report of the panel should be submitted to Congress one year prior to the next reauthorization of the Act.

7. The Magnuson Act requires the Secretary of Commerce to take prompt emergency action if a regional need is documented by a unanimous vote of the Council. Since the Secretary's member of the Council is under instructions not to take part in a unanimous vote, this provision of the law is circumvented. The Act should be modified to require a Council vote to be unanimous less one.

8. Congress should seek additional funding for NOAA/NMFS to carry out its expanded mandates in fisheries, marine mammals, and environmental affairs. Congress should recognize that there has been significant growth

in the U.S. domestic fisheries which has increased the demands on NOAA/NMFS in terms of stock assessment and management. There is an increased need to consider the marine mammal by-catch problem in fisheries, as well as marine debris and other environmental issues. There are greatly increased demands for scientific research, as well as monitoring of fisheries and other ocean industries. Congress should consider more imaginative means for developing funding for research and observer programs, including allocating a portion of the allowable catch for research purposes, allowing vessels carrying observers to retain by-catch of prohibited species, and/or sharing cost programs with industry.
We endorse a proposal by the Alaska, California, Hawaii, Oregon, and Washington Fishery Coalition that identifies seven critical fundings needs in support of an effective NOAA fisheries budget for fiscal year 1990.

Finally, Mr. Chairman, we must note that important problems lie beyond the scope of domestic law. Vigorous action by the Department of State is required to negotiate settlement of the problems of high seas fishing. The uncontrolled fishing in the "donut" area must be put under rational management, and the interceptions of salmon must be curtailed. The burden of scientific investigations beyond our 200-mile-limit must be shared by the international community. The formation of an international scientific organization, such as the Pacific International Council for the Exploration of the Sea (PICES), is long overdue.

Senator ADAMS. Mr. Reichman?

STATEMENT OF ALAN REICHMAN, NORTH PACIFIC OCEAN ECOLOGY COORDINATOR, GREENPEACE USA

Mr. REICHMAN. Thank you, Mr. Chairman. My name is Alan Reichman. I'm the North Pacific Ocean Ecology Coordinator for Greenpeace, based here in Seattle. Our organization now has offices in 21 countries with 1.25 million supporters in the United States, including 35,000 in Washington.

Greenpeace has an ongoing interest in policy related to several issues that are being reviewed during this reauthorization. We have participated in proceedings in both the North Pacific and Pacific Councils. We have also been especially active in the efforts to mitigate the hazards of the driftnet fisheries.

I submitted a written statement that includes a package of twelve proposed amendments that would serve to enhance conservation of our nation's fisheries resources. I am going to summarize our testimony with emphasis on the two most critical Northwest and Alaskan issues, the overcapitalization of the Bering Sea and Gulf of Alaska trawl fleets and the ecological damage being caused by high seas driftnets.

As other witnesses have remarked this morning, the Magnuson Act has met its objective to Americanize fisheries. Now that most major fisheries in the E.E.Z. are fully or overexploited, policies to promote the growth of capacity must be replaced by policies geared to contain it. The emphasis up to now has been to provide commercial development opportunities. Now the emphasis must shift to conservation.

The Alaska trawl fleet vessels now in operation, as others have testified, already have enough capacity to harvest the entire 2.2

million ton groundfish quota. Nevertheless there are reported to be another 20 or more vessels under construction or in the planning stage. This overcapitalization is likely to cause increased economic and political pressure to lift the quotas above sustainable levels.

Overfishing of pollock and other groundfish in the Bering Sea and the Gulf of Alaska would have dire ecological consequences for sea birds, marine mammals and other fish species such as crab, halibut, salmon and herring. Pollock is an important prey species for many sea birds, such as tufted puffins, murres and auklets, and for marine mammals such as northern fur seals and Stellar sea lions. A pollock collapse could devastate these species. These fur seal and sea lion populations are already experiencing steady declines. NOAA scientists have determined that lost trawl fragments and other marine debris were a factor in the decline of fur seals and that sea lions were taken incidentally in active fish trawls.

The large deep-water trawls used by the fleet are capable of doing tremendous damage to the sea bottom, and species dependent upon that habitat. It is our view that strict by-catch controls must be implemented and that the current 2 million-ton quota cap for the Bering Sea must be firmly maintained despite the overcapitalization pressures.

In order to maintain conservation safeguards we support amendments for a mandatory observer program for the trawl fleet, and other fisheries, with an industry-funded trust fund to pay for it.

We also recommend that the Act be amended to exhort the regional Councils to establish controlled access programs to ascertain capacity in this fishery as well as in the Washington and Oregon groundfish fishery and others which are now experiencing rapid growth.

Our experience in the Councils has prompted us to recommend that the FCMA be amended to include an environmental representative as a full voting member in each one. Environmental representation on the Councils would help to insure that fisheries are environmentally sound, and would also serve to enhance the Councils' abilities to address habitat issues.

Also in regard to the Council process, Greenpeace opposes the proposed amendment to eliminate the requirement that fishery management plans and amendments comply with the National Environmental Policy Act. It is crucial that requirements be maintained in order to assure proper safeguards. At a time when it is absolutely critical that our agencies take greater responsibility to preserve shrinking fish habitats it would not be prudent for the Councils and NMFS to lessen their environmental commitments.

In regards to the high-seas drift-nets crisis, is it our position that while the tentative Taiwanese pact represents an improvement, the agreement with Japan demonstrates that the State Department must take a more assertive approach to work towards a ban on the use on these huge nonselective nets. We recommend that the Act be amended to include a provision that will mandate the State and Commerce Departments to work towards elimination of high-seas drift net fishing by 1992. We further recommend that the government work to expand the scope and jurisdiction of the I.N.P.F.C. or negotiate a new North Pacific Convention by that deadline to accomplish that goal.

We also want to look ahead and propose a proactive conservation measure to prohibit the use of drift gillnets longer than one nautical mile by U.S. fishermen. We fear that competition could provoke U.S. fishermen to begin using large-scale drift-nets such as those used by the Asians. If the U.S. industry develops around the use of this gear it will undercut efforts to gain an international phase-out of large drift-nets.

It is our understanding that at this time no such nets are being used in the United States and we are not aware of any industry opposition to this measure.

Overall, I think our comments echo Dr. Alverson's and others who have participated. We are concerned that the federal government must take a greater responsibility to manage our nation's fisheries and provide a new emphasis on conservation. Clearly an increased budget will be necessary for NMFS and the Councils to do an effective job. But we don't feel the taxpayer should foot the total bill. Additional money should be gained through industry user fees clearly directed into observer, management, and enforcement programs.

Here in Washington and Alaska we are fortunate to have marine ecosystems which are still biologically rich. We are at a critical juncture, though, where we have to make some hard decisions to emphasize conservation and environmental protection or we're going to risk facing the same ecological and economic consequences that have resulted from fish depletions in other regions. This FCMA reauthorization represents a great opportunity to get on the right track.

Thank you for this opportunity.

Senator ADAMS. Thank you very much, Mr. Reichman. An excellent statement.

Mr. Thornburgh?

[The statement follows:]

STATEMENT OF ALAN REICHMAN, NORTH PACIFIC OCEAN ECOLOGY COORDINATOR, GREENPEACE USA

I am pleased to have this opportunity to present the views of Greenpeace U.S.A. in regard to the reauthorization of the Magnuson Fishery Conservation and Management Act of 1976 (FCMA). Greenpeace is an international environmental organization with offices in 21 nations and approximately 1.25 million supporters in the United States, including 35,000 in Washington state. My name is Alan Reichman. I am the North Pacific Ocean Ecology Coordinator for Greenpeace International and am based in our Seattle office.

As an environmental organization dedicated to preserving the viability of the marine environment, Greenpeace has an ongoing interest in policy relating to several issues that will be reviewed during the reauthorization process. We have engaged in considerable campaign activity relevant to the FCMA. Our organization has been active in the effort to mitigate the hazards of the pelagic driftnet fisheries, has participated in the proceedings of Regional Fishery Management Councils, has worked to preserve fish habitat from the dangers of toxic pollution, and has cooperated with the commercial fishing industry to address marine mammal/fisheries interaction problems.

Our statement covers a range of issues of concern to Greenpeace and concludes with a package of proposed amendments to the Act.

OVERCAPACITY IN U.S. FISHERIES

The Magnuson Act has fulfilled its primary goal. The "Americanization" of U.S. fisheries through the establishment of the 200-mile Exclusive Economic Zone (EEZ) has brought successes, and new challenges. Now that fish resources within the EEZ are almost fully harvested by the U.S., and most major stocks are fully or over exploited, policies to promote the growth of harvesting capacity in the U.S. industry must be replaced by policies geared to contain it.

In Alaska, for example, the factory trawl fleet, consisting of 50 or more vessels, is capable of harvesting almost the entire 2,200,000 metric ton quota of groundfish in the Bering Sea and Gulf of Alaska (which is two/fifths, by weight, of total U.S. commercial landings). Another 20 or more vessels are reported to be under construction, or are being planned, and are projected to enter the fishery within the next few years. This represents unacceptable and dangerous growth, yet nothing is being done to remedy this overcapitalization problem. Meanwhile, off the

coasts of California, Oregon, and Washington, trawlers displaced from Alaska as a result of the phase-down of joint venture operations are moving into fisheries which are already fully exploited. And, in the Gulf of Mexico, the National Marine Fisheries Service (NMFS) reports that the number of vessels targeting shrimp is in excess of the available resource.

In New England, the status of groundfish stocks, and the fishery dependent on those stocks, is an area of special concern. The number of vessels, capacity, and effort have all increased substantially since 1977 while the stocks have declined even further. Groundfish stocks are now at historic lows, and given the number of vessels engaged in the fishery, the stocks are not likely to recover under the current management plan. Although scallop resources have shown impressive signs of recovery from the low levels of the early 1980's, there is concern in the industry that without limiting participation in the fishery there will be little economic benefit to the individual vessels involved.

All of this points to the fact that overcapacity is currently, or will soon be, a serious problem in most major fisheries in the United States. Excess capacity is disruptive not only to the health of commercially harvested fish resources, but also to the health of marine ecosystems as a whole, including marine mammal and seabird populations. Unfortunately, it is presently being inadequately addressed in a regional manner on an ad hoc basis.

The problem of overcapacity is a national one and we need a blueprint for national action. First, capacity must be measured with respect to available resources in all major fisheries. Second, the development and implementation of viable schemes for limiting growth or capacity must be made mandatory for fisheries where it is necessary. The details of plans for limiting capacity should be determined by the Councils. What we need from Congress is the mandate that such action be taken.

THE REGIONAL FISHERY MANAGEMENT COUNCILS

Modifications of the Act would be useful to improve the effectiveness of the Councils in attaining their objectives for conservation and management of our nation's fisheries.

Each Council should include a representative of an environmental organization as a full voting member. Section 2.(b)(5) of the FCMA establishes "environmental organizations" as one of the parties that are to "participate in, and advise on"

the fishery management plans prepared and implemented by, the Councils.

Environmental representation on each Council would help to assure that fishery activities will not damage the environment and non-target marine species, and would serve to enhance the Councils' abilities to address habitat issues.

For too long, fish stocks, and the fishing industry, have borne the brunt of marine and coastal pollution. The diversion of water from salmon spawning streams in northern California, and the continued dumping of New York City sewage at the 106-mile dump site are just two striking examples of this.

The habitat provisions of the FCMA should be strengthened to enable the Councils to become more active and effective in preserving fish habitat. To meet this end, the Councils should be provided with increased ability to influence the actions of other agencies. NMFS and the Councils must take a leading role in defining those areas where preservation is critical to the protection of fish resources, and should work closely with other federal and state agencies to mitigate negative impacts on fish habitat. The recommendations of the Councils should be made binding in such instances. Towards this end, Greenpeace endorses the habitat provision amendments that have been presented by the National Wildlife Federation.

The Councils, and NMFS, in developing fishery management plans (FMP's) and amendments, should also more thoroughly consider the impacts of various gear types on habitats. The Atlantic Coral Plan, which prohibits the use of trawl gear, longlines, traps, pots and dredges on specified coral reefs, is a good example of this.

NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENT

Greenpeace opposes the recommendation by several Councils to eliminate the requirement that fishery management plans and amendments comply with the National Environmental Policy Act (NEPA). We believe it is necessary for the Councils to assess the impact of FMP's on the marine ecosystem, including non-target species such as marine mammals and seabirds.

Adequate environmental safeguards are not automatic elements of fishery management plans.

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It is necessary that the NEPA requirements be maintained in order to assure proper environmental safeguards. Last year, for example, a Draft Supplemental Environmental Impact Statement (DSEIS) was prepared in response to a proposal to the North Pacific Fishery Management Council to increase the upper limit of the optimum yield range of Bering Sea/Aleutian Islands groundfish. The DSEIS reviewed the potential impacts of increased trawling activities on northern fur seals, Steller sea lions, and other non-target species, and examined concerns such as impacts on the benthic environment, and the potential for increased discard of net fragments and debris. Without the NEPA requirement, this broad-ranging review, which greatly benefited the Council in its decision-making process, would not have been carried out.

At a time when it is critical that other agencies take greater responsibility in mitigating environmental impacts in order to save shrinking habitat, it would not be prudent for the Councils and NMFS to lessen their environmental commitment.

MANDATORY OBSERVERS -- USER FEE REQUIREMENTS

Two areas of great concern in fisheries management are the lack of sufficient data upon which to base management decisions, and the difficulties experienced in enforcing fisheries regulations.

Observers provide timely data for the purpose of determining acceptable biological catch figures, setting total allowable catches, and modifying fishery management plans. Observer information would help to alleviate the all too common problem where a plan, based on the previous years' surveys and data, is slow to respond to rapid fluctuations in stock sizes and mobility. Observers would also provide immediate feedback to the Councils and NMFS as to the working effectiveness of particular management plans.

Regulations concerning by-catch of prohibited species and juveniles, discards at sea, time and area closures, and gear restrictions including minimum net mesh size requirements -- and monitoring of log book accuracy and reporting -- are all very difficult to enforce even with a pervasive and costly police presence at sea. The use of observers is a proven, and potentially cost effective, alternative. A combination of observer coverage with periodic enforcement at sea, and stiff fines and penalties for violations, will increase adherence to regulations.

Greenpeace recommends that the placement of observers be made mandatory in those fisheries where insufficient data exists to properly assess the status of stocks, and in those fisheries where management has proven to be ineffective due to enforcement problems. We recommend the use of observers as a means to gather necessary data to set quotas and properly manage fisheries resources, and to monitor compliance with fisheries regulations.

In particular, observer coverage should be reinstated on fisheries that were subject to observer coverage as foreign fisheries. These would include the rapidly expanding Bering Sea and Gulf of Alaska groundfish trawl fisheries where comprehensive data is now needed to protect two of our nation's most productive marine systems.

In this era of federal fiscal constraint, it has become apparent that in order to implement essential management and enforcement programs, the fishing industry must provide some funding. Fish stocks are a common property resource from which the industry derives significant benefits. Strong management is necessary not only to maintain the long-term economic viability of an important industry, but to preserve the sustainability of marine ecosystems and the marine mammal and seabird species that are components of them.

The funds provided by the industry should only be directed specifically to the observer and management programs for the fisheries which are required to pay the user fees. The Act should provide for establishment of a specified trust fund to ensure direction of the user fees into such programs.

NATIONAL STANDARD PROVISION FOR REDUCING DISCARD CATCH

Sufficient data to manage resources is often lacking due to unreported discard of juvenile and non-target species of fish. Also, excessive mortality of underutilized species may compromise the development and growth of future fisheries. Most important, however, is that the mortality of substantial amounts of fish in the form of discarded bycatch is neither currently measured nor considered in terms of the overall effect on the marine ecosystem.

We recommend that a national standard must be established to assess the extent and effect of discard mortality on fisheries management and the health of fish stocks. The reporting requirements for discard in all fisheries must be strengthened, and the degree of mortality must be regulated to minimize the negative effect of such a wasteful practice.

THE PACIFIC PELAGIC DRIFTNET FISHERIES

The pelagic driftnet fisheries of Japan, Taiwan, and the Republic of Korea are continuing to threaten a wide range of marine species in the North Pacific and Bering Sea. The 7 to 30 mile-long plastic driftnets being used by these fisheries are hindering effective conservation of valuable fish resources, such as salmon, billfish, and albacore, and are causing widespread incidental kills of marine mammals and seabirds. The kills of Pacific right whale dolphins, common dolphins, Dall's porpoises, northern fur seals, and other species represents the largest unnatural mortality of marine mammals in the North Pacific today.

Greenpeace strongly supports a phase-out of the use of large-scale pelagic driftnets. The U.S. must take the lead in effectively monitoring the pelagic driftnet fisheries, and move towards a phase-out of the use of pelagic driftnet fishing technology. The Congress should influence the Executive Branch to act in this direction. A statistically reliable observer program and effective enforcement system must be gained, and the International North Pacific Fisheries Commission (INPFC) should be expanded to regulate all high seas driftnet fisheries and should include more Pacific Rim nations. If the INPFC cannot provide the needed forum, an alternative North Pacific regional fisheries convention should be developed.

The recent agreement negotiated with Japan and Canada illustrates that the Administration, and the State Department in particular, have not taken a sufficiently assertive approach. The agreement does not provide enough observers to comply with the "statistically reliable monitoring" provisions mandated by the Driftnets Act. Furthermore, this agreement does not require transponders on driftnet vessels in order to monitor the location of the fleet.

The tentative agreement reached with the Taiwanese represents a significant improvement in that it would require 100% of that nation's driftnet vessels in the North Pacific to accept transponders in 1990. However, the lack of observers required under this pact represents a weakness that may especially undercut future efforts to gain protective measures for marine mammals and seabirds. Nevertheless, the Administration should be ready to follow through on Taiwan's certification under the Driftnets Act, and halt imports of marine products from that nation, if it decides not to accept the tentative agreement.

Greenpeace recommends that the FCMA be amended to include a provision that will mandate the U.S. government to work towards the elimination of pelagic driftnet fishing by 1992. Greenpeace

further recommends that the government work to expand the scope and jurisdiction of the INPFC, or negotiate a new North Pacific convention, by that deadline. In order to attain this goal, the Pelly Amendment should be amended so that trade sanctions against offending nations are not discretionary and are not limited to marine products.

At present, there is a danger that competition for dwindling resources with foreign fleets could provoke U.S. fishermen to begin using these large nets. As a proactive conservation measure, the FCMA should be amended to prohibit the use of drift gillnets longer than 1 nautical mile (1,000 fathoms) by U.S. fishermen. Institution of such a requirement will serve to halt any development of a U.S. fishery using this destructive fishing technique. If a U.S. industry develops around the use of this gear it will hamper all efforts to gain a phase-out of large scale driftnets at the international level.

The drift gillnet length amendment should apply to all U.S. fishing vessels whether operating in or outside the U.S. EEZ. Vessels should be limited to the use of no more than 1 nautical mile total volume of drift gillnet, whether in one or more segments.

Greenpeace also wishes to focus the Congress's attention on the rapid escalation of pelagic driftnetting in the South Pacific. During the 1988-89 summer fishing season, it is estimated that approximately 130 Taiwanese, 30 Japanese, and 2 Korean driftnet vessels fished for albacore and other tuna species in the South Pacific Ocean and Tasman Sea. It is estimated that less than 20 driftnet vessels operated in that area in 1987-88. If the driftnetting continues, not only will local populations of dolphins and seabirds be at great risk, but tuna stocks could become depleted.

The viability of albacore and other tuna stocks are important to the U.S. tuna fleet as well as to American Samoa and the Pacific Trust Territories. Congress should direct the State Department to work to cooperate with New Zealand, Australia, and other Pacific Island states to gain a moratorium on the growth of the driftnet fleets, and an eventual phase-out, in that region. The South Pacific Forum nations are taking a vigorous, assertive approach to prohibit driftnets. Our nation should join them in a concerted Pan-Pacific effort at international fora -- including the United Nations -- to end the use of this indiscriminate, destructive fishing technology.

UNITED STATES/CANADA FISHERIES AFFAIRS

We would like to see greater cooperation between the U.S. and Canada in the area of joint management of shared fish stocks.

Stock collapses have occurred throughout the world as a result of uncoordinated international management. For example, in the Barents Sea, stocks of capelin have collapsed because of irresponsible management of the fishery by both Norway and the Soviet Union. The collapse of the stock, an important link in the marine food web, has severely stressed the Barents Sea ecosystem and has resulted in economic hardship for coastal communities throughout northern Norway which depend almost exclusively on commercial fishing for their livelihood.

In New England, the conservation of shared resources such as groundfish and herring would be better served by joint U.S./Canadian management. We propose that the Secretary of Commerce, through the Secretary of State, take stronger action to establish cooperation with the Government of Canada towards this end. At present, management efforts by both countries tend to undermine each others' effectiveness. In the absence of coordinated management of shared stocks, the temptation will always be strong for either side to take more than a sustainable share of the catch.

As a step towards such cooperation, we also propose that the U.S. negotiate entry into the Northwest Atlantic Fisheries Organization (NAFO). This year, the European Economic Community (EEC) allocated itself thirteen times its NAFO quota of groundfish on the nose and tail of the Grand Banks. This shortsighted act illustrates the need for the U.S. to join the organization to become a force for better conservation of marine resources in the international waters of the Grand Banks, especially in light of U.S. fisheries interests in the area.

CONCLUSION

At this critical juncture, the U.S. must act expediently to address the issues facing the future viability of our marine fish stocks. The Magnuson Act brought control over the 200-mile EEZ and stimulated the Americanization of the fisheries. Now, Congress must take action to amend the FCMA to address problems caused by overcapacity, the lack of data to assist scientific assessment and management decisions, by-catch and discard catch, ineffective enforcement of regulations, and the loss of critical fish habitat.

Assertive action must also be taken on the international level to address the high seas driftnets crisis, unregulated groundfish trawling by foreign fleets in the Bering Sea "donut hole," and collapse in Northwest Atlantic groundfish stocks.

Clearly, an increased budget will be necessary for the National Marine Fisheries Service, the Regional Fishery Management Councils, and other agencies, to do an effective job. Additional moneies should be gained through the institution of industry user fees clearly directed into observer, management, and enforcement programs. The Federal Government and the fishing industry must share responsibility to ensure that financial resources are adequate to attain effective fisheries conservation and management.

The vitality of our nation's marine ecosystems, and all the diverse species that comprise them will only be maintained if we effectively conserve and manage fish stocks and protect their habitats. We urge Congress to give full consideration to our views and recommendations.

Thank you for this opportunity to present Greenpeace's views.

GREENPEACE'S PROPOSED AMENDMENTS TO
MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT (MFCMA)

1. Establish a mandatory observer program on select fisheries, to be implemented by the Secretary of Commerce, including those fisheries which were required to carry observers when they were foreign fisheries (e.g. Bering Sea and Gulf of Alaska groundfish trawl fisheries). Other fisheries where observers are to be required include those where insufficient data exists to properly assess condition of stocks, and/or those fisheries where management has been difficult as a result of difficulties in enforcing regulations. Require public release of tonnages and by-catch information, by time and area.

2. Establish a user fee requirement for funding of observer programs and other management and enforcement purposes. Monies to be held in specified trust fund to ensure direction of funds into the program.

3. Require appointment of an environmental representative on each regional fishery management council as a full voting member pursuant to Sec. 2. (b) (5).

4. Establish a maximum drift gillnet length limit requirement of 1 nautical mile (1,000 fathoms) for U.S. vessels operating inside and outside U.S. EEZ. This requirement shall limit volume of net that can be deployed by each individual vessel to 1 nautical mile.

5. Strengthen habitat provisions in Sec. 302 (i) to grant the Councils greater authority regarding the activities of other federal and state agencies which may potentially impact the habitats of fish stocks within their jurisdiction. Require that the Councils move to assess the impact on fisheries habitat of the various gear types employed in particular fisheries and regulate the use of such types accordingly.

6. Establish limited entry/controlled access provisions to exhort regional councils to develop systems to circumvent overcapacity in fisheries. Make the discretionary provision of 303(b) (6) mandatory in those fisheries where capacity is assessed to be full or excessive with respect to available resources. Direct the Secretary of Commerce to draw up a set of guidelines for the development and implementation of such systems.

7. Develop a National Standards provision to reduce discard catch and waste.

8. Establish a Congressional finding which supports the goal of eliminating high seas driftnet fishing beyond the 200-mile EEZ after 1992, and direct the Secretary of State to develop and negotiate, by that time, a new international North Pacific fisheries organization, which would include, at a minimum, Canada, Japan, the Republic of Korea, the Soviet Union, and the United States.

9. Stipulate non-discretionary amendment to Governing International Fisheries Agreements (GIFA's) to require that the boarding of all foreign fishing vessels on the high seas be allowed as a part of extended jurisdiction over anadramous fish resources.

10. Stipulate non-discretionary amendment ot GIFA's that transponders be required on all foreign vessels within the EEZ. Also, as part of GIFA's, stipulate that mandatory transponders must be required on board all GIFA-nation foreign vessels fishing within indentified salmon habitat zones in international waters.

11. Require that the Secretary of Commerce, through the Secretary of State, to act to initiate cooperation with the Government of Canada for the purpose of establishing joint U.S.-Canadian management of shared fish stocks, in particular Georges Bank and Gulf of Maine stocks.

12. Require the Secretary of Commerce, through the Secretary of State, to act to negotiate entry of the United States into the Northwest Atlantic Fisheries Organization (NAFO).

In addition, Greenpeace opposes the proposal to amend FCMA to eliminate National Environmental Policy Act (NEPA) requirements during the development of fishery management plans and plan amendments.

STATEMENT OF GUY N. THORNBURGH, EXECUTIVE DIRECTOR, PACIFIC MARINE FISHERIES COMMISSION

Mr. THORNBURGH. Thank you. I'm Guy Thornburgh, Director of the Pacific Marine Fisheries Commission representing the coastal states from California to Alaska.

We believe the Magnuson Act has been the catalyst for a very effective partnership between the state and the federal government here on the west coast. This is a model program which ensures that all fisheries are properly managed, from the beach out to 200 miles.

The two Councils here on the west coast manage anchovy, groundfish, some of the salmon. These fisheries are of course managed by the federal government and they are funded predominantly by the federal government, but they all have compatible state regulations, which, is part of our partnership, and there is considerable financial aid provided by the states, another element in this partnership.

All other fisheries, even those in the E.E.Z., are actually regulated by the states, not by the federal government, and they are funded predominantly by the states.

This system may seem cumbersome to some of our users, but it works. It has to work, because we have policies here on the west coast that are set by the Councils, by legislatures, by boards, state commissions, halibut commissions, salmon commissions, I.N.P.F.C. commissions, tribes and the courts. We also have overcapitalization of our commercial fisheries, exploding sports fisheries, we have cute sea otters and hungry sea lions, we have hydro dams, oil and gas, antigilnetters, antitrawlers and even people that are antigovernment. But one thing keeps this whole system going on the west coast, and that is information. Data gathered and data processed of day-to-day fishery operations.

Without fisheries information, we can't have this state/federal process that keeps the Magnuson Act going. Without this information we can't get the high productivity that we get out of our west coast resources, and without this kind of data we can't have the ability to make the allocations between the conflicting users.

These data come from state and federal budgets, but many of the federal programs are at less than one-half of their spending power that they had three years ago, due inflations and due to budget reductions. Yet at the same time that these budgets are going down, government responsibilities for the E.E.Z. are increasing. The Magnuson Act needs funding to keep it going and to have this west coast program survive.

I see two scenarios. The financial burden can be passed on elsewhere, and this is exactly what has been happening in the last couple years. Our west coast states have been absorbing the reduced spending power of the federal government.

However, our states are already paying their fair share of the fishery programs. In 1987 our four west coast states spent 160 million dollars of their own state money to manage fisheries. This year the National Marine Fisheries Services is only spending 167 million dollars to manage the entire federal program.

Our states have user fees; licenses and landing fees. We hear talk about passing the burden of the federal budget on to the users. However, if too much of this burden is passed on to the users it's going to jeopardize our state fees, and with the partnership here on the west coast, if we do that we're just robbing Peter to pay Paul.

The other option, instead of passing the burden on to someone else, is to have the federal government fund the Magnuson Act at adequate levels. This is a great financial return to the nation on the investment.

Washington state itself, in the commercial industry, exceeds 3 billion dollars a year, and there are many other users of NOAA services, not just fishermen. There are many nonconsumptive users of those services, like the environmental community, and also every boat that goes to sea. The marine merchant fleet, the cruise ships, et cetera, uses NOAA's weather services. NOAA is a national program. It has national significance and I think it deserves national funding.

Besides funding, another immediate need for a successful Magnuson Act is a protection of our anadromous fisheries, salmon and steelhead, on the high seas. Clarification and assertion of Magnuson Act authority, even if it means boarding high-seas foreign vessels, is essential to protect our west coast fish.

Finally, our commission has two other concerns that the Magnuson Act should address over the long term, habitat and fishing effort.

We must take care of the aquatic habitat of our fish populations. The demand for fish is staggering and continues to increase, yet the potential for sustained yields, let alone increased yields, is threatened by polluted water, dwindling wetlands, and competing uses of our marine and anadromous waters. Strengthening the Magnuson Act to give the Secretary a stronger role in habitat decisions can surely help.

Our other concern is fishing effort. As we all know, nearly all domestic fisheries already have more than enough effort, with new entrants continuing at a rapid rate. Administrative avenues for effort control must be clearly and easily available to decision makers. There should be no issue with the intent of the Magnuson Act to allow and to encourage the regional Councils to control fishing effort by using innovative approaches.

If habitat degradation and fishing effort are not controlled, the regulation of fishing will become even more complicated, more frustrating and more expensive.

Thank you.

[The statement follows:]

Statement of:

Guy N. Thornburgh, Executive Director
Pacific Marine Fisheries Commission
Portland, Oregon

Mr. Chairman, the Commission urges action by your committee to reauthorize the Magnuson Act, and thereby assure continuity of the state/federal partnership on the west coast which contributes significantly to the well-being of our Nation's fisheries. In the reauthorization process, we encourage that you consider immediate needs for federal fiscal support of the NOAA fisheries program, collection of data at sea, and protection of our anadromous fish on the high seas. We also encourage long-term protection of fisheries habitat and control of excessive fishing effort.

The Commission represents the states of Alaska, California, Idaho, Oregon and Washington. We were established forty-two years ago to coordinate the development, utilization and conservation of the interstate fisheries resources of the Pacific Ocean. With the passage of the Magnuson Act and its role in interstate management of the EEZ, the Commission now focuses on issues and fisheries that are not addressed by the Regional Fisheries Councils - - our niche now is to compliment, rather than duplicate, the Regional Councils. However, the Magnuson Act does indeed impact our coastwide efforts and we take interest in its future.

Overall, the Magnuson Act works. It has addressed the foreign fisheries in the EEZ and it has created a process to deal with our domestic fisheries. In fact, the Magnuson Act has been the catalyst for a very effective and efficient partnership between the states and the federal government on the west coast. We believe that our federal/state fisheries program is a model; one which assures that all of the interjurisdictional and anadromous fisheries are properly managed; from California to Alaska, and from the beach to 200 miles.

Our partnership is based upon a sharing of regulatory and fiscal responsibilities and roles. Six interjurisdictional fisheries are managed by the Councils - - anchovy, W.O.C. salmon, W.O.C. groundfish, Southeast Alaska salmon, G.O.A. groundfish and Bering Sea groundfish. These fisheries are, of course, regulated by the federal government and funded predominantly by the federal government; but they all have compatible state regulations (which is one element of our partnership) and there is considerable financial aid provided by the states (another element of our partnership).

All other interjurisdictional fisheries in the EEZ are actually regulated by the states, not the federal government (even though they occur out to 200 miles and even though the Councils at one time considered all of these fisheries for federal FMPs). Examples of these fisheries include king crab, herring, Dungeness crab, shrimp, scallops and billfish. They are funded predominantly by the states, but with some assistance from federal programs (e.g. the Interjurisdictional Fisheries Act). Finally, the partnership includes fisheries which are exclusively within state waters; managed by state rulemaking, and funded by state dollars. These fisheries include urchins, oysters, clams, Bristol Bay salmon, etc.

This partnership, which has taken years to develop, is completely dependent upon information - - data on the fishery resources and data on the many users of those resources. This information-hungry process won't change; the technology for information gathering and processing continues to expand, and the resource users (both consumptive and nonconsumptive) expect the decision makers to be well informed. The ability of the west coast federal/state fisheries program to achieve such high yields (fish catch and products exceed $3.5 billion annually) and to allocation among so many diverse users rests with information. The bottom line is that the Magnuson Act, as a major component of this effective program, needs adequate, stable federal funding to continue its success.

The basic day-to-day programs need money. In many projects the FY89 NOAA budget has a spending power of only one-half the level of FY86, due to budget reductions coupled with inflation. Yet not only are these programs still necessary at the FY86 level, in fact the federal responsibilities in the EEZ have increased, not decreased, (due to full americanization of groundfish and due to tougher domestic allocations which demand greater information from commercial fishermen, recreational fishermen, the tribes and environmentalists).

If the nation's marine fisheries program is not adequately funded, then three things will happen: (1) less information will lead to either (a) overfishing of our stocks or (b) in the attempt to prevent overfishing, ultra conservative regulations will lead to under utilization; (2) user conflicts will intensify as poorly documented allocations are made; and (3) the burden of funding the data programs will shift even more to the states or to users.

This last point particularly concerns the Commission. The west coast states already bear much of the financial burden. Keep in mind that our states already collect license fees (both commercial and sport) and landing fees. A study in FY87 shows that our four coastal states spent $160 million, of their own funds, on fisheries programs. This compares to $167 million in FY89 for NOAA fisheries, which is used to manage the entire marine fisheries program of the nation.

The states should not be expected to continue to pick up federal program reductions. Further, federal fees, if applied in a fashion that would compete with existing state fees, would then threaten the state share of the west coast federal/state partnership. This would essentially be robbing Peter to pay Paul. On the other hand, fees assessed of particular fisheries for particular data collection programs (as proposed in H.R. 1554, Young) would help solve specific, "single issue" problems, but fall short of the nation's overall needs for adequate funding.

Beside funding, another immediate need for a successful Magnuson Act is onboard data collection (i.e. observers). "Wild and Free in the EEZ" was great during the period of foreign phase-out, but our fishery resources are so valuable, so limited and so much a part of the total ecosystem that the time has come to fully document the impact of our "at-sea" fishing and processing operations. The Magnuson Act should be sufficiently flexible to allow Council structuring of a variety of observer programs. Also important to our Commission is that the Magnuson Act, not the Marine Mammal Protection Act, be the vehicle for onboard observer programs. The MMPA observer program is intended to verify the rate of take of marine mammals. Once that rate is known (independent of whether the rate is high or low) the program is no longer necessary and should be removed. Long-term observer programs for fisheries purposes should be implemented through the Magnuson Act.

A third immediate need is to protect our anadromous fish (salmon and steelhead) throughout their migratory range beyond the EEZ, as declared in Section 101 (b) of the Magnuson Act. Clarification and assertion of this authority, including the right to board foreign vessels, is essential.

PMFC has two other concerns that the nation must address over the long-term to assure the health of our living marine resources - - habitat, and fishing effort.

We must maintain, and in many cases restore, the aquatic habitat of fish populations. The demand for fish is staggering, and continues to increase. Yet the potential for sustained yields, let alone increased yields, is threatened by polluted water, dwindling wetlands and competing uses of our marine and anadromous waters. Strengthening the Magnuson Act to give the Secretary a stronger role in habitat decisions can surely help.

The other concern is fishing effort. As we all know, nearly all domestic fisheries already have more than enough effort, with new entrants continuing at a rapid pace. Administrative avenues for effort control must be clearly and easily available. There should be no issue with the intent of the Magnuson Act to allow the Regional Councils to control fishing effort using innovative approaches.

If habitat degradation and fishing effort are not controlled, the regulations of fisheries will become even more complicated, more frustrating and more expensive (for fishermen, consumers and governmental managers).

Thank you for this opportunity to comment.

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Senator ADAMS. Thank you very much.

Senator Packwood?

Senator PACKWOOD. Mr. Thornburgh, when you say administrative avenues for effort control must be clearly and easily available, are you meaning the Federal government or NOAA or the Councils or somebody should limit who gets to fish?

Mr. THORNBURGH. Yes, sir. We believe in forms of limited access, limit effort, in order to control the expansion of effort, and we think that the Councils and NOAA and all parts of the government should understand that indeed the intent of the Act is to control effort and that those administrative avenues should be there to allow them to do it. They should be in evidence.

Senator PACKWOOD. What would be, in your judgment, the best method of deciding who gets to fish?

Mr. THORNBURGH. I think the methods that have been traditionally used across the world in terms of limited access, shared quotas, the methods of patrolling efforts, et cetera, should be——

Senator PACKWOOD. Do you have a lottery system for who gets a medallion and you can have a boat, kind of like taxicabs in New York?

Mr. THORNBURGH. I think that that—those options should be available on a fishery-by-fishery, region-by-region basis for the industry to determine how.

Senator PACKWOOD. But you are talking about the government picking and choosing, saying all right, we'll have 10 factory trawlers and we'll have 100 longline ships and that's all and if there's 500 people that want longlines and 200 that want trawlers, we'll figure out amongst them which ones get the permits?

Mr. THORNBURGH. Well, there are ways to determine, based on historic use, et cetera. States of Alaska, other nations, have limited access——

Senator PACKWOOD. I just want to know if that's what you're suggesting.

Mr. THORNBURGH. Yes, I'm suggesting that.

Senator PACKWOOD. Do you agree with that?

Dr. ALVERSON. I think there are means of limiting effort just in terms of simple license limitations. If you stepped into the Alaska fishery at the right point in time, perhaps two years ago, and said, we're going to put a license limitation on the bottom fish industry, it would have stopped much of the conflict that now exists between shoreside, at-sea, longliners, trawlers, et cetera.

Senator PACKWOOD. Interesting suggestion. You sort of literally do make it look like New York taxicabs and their permits. You got one, you can sell it to somebody else, but there are only so many issued.

Dr. ALVERSON. You do it in your forests all the time——

Senator PACKWOOD. Oh, yeah.

Dr. ALVERSON [continuing]. Limited entry into your forests, and it is a public resource——

Senator PACKWOOD. Yes, it is.

Dr. ALVERSON [continuing]. As I've stated before, which you have a right to make that decision.

Senator PACKWOOD. Thank you, Mr. Chairman.

Senator ADAMS. Thank you, Senator Packwood.

Senator Gorton?

Senator GORTON. Mr. Reichman, I want to commend you at Greenpeace on this paper and on your recommendations which I think are by and large very thoughtful and very constructive.

I do have one question about one of them and how it relates to something which Dr. Alverson stated. You were asking for an environmental representative on each of the Councils. Dr. Alverson in his fourth recommendation stated that he believed that Congress should remove the Council's authority to alter acceptable biological catches or maximum sustainable yields in findings established by scientists with some conditions on that.

Would that not reach exactly the same goal that you seek in your recommendations without having to add another member to the Council?

Mr. REICHMAN. I think it can possibly reach the same goal, but I think an environmental representative who does not have any industry interests, that brings an opportunity for objectivity and balance——

Senator GORTON. He's only going to have one vote.

Mr. REICHMAN [continuing]. In the process.

Well, one vote can go a long way in terms of Council processes, in terms of different issues.

Senator GORTON. But at any rate, those two recommendations are pretty much aimed in the same direction.

Mr. REICHMAN. I think a lot of the recommendations here are aimed in the same direction.

Senator GORTON. What do you say about that?

Dr. ALVERSON. Yes, I think—basically it's aimed at insuring that the scientific information, the so-called best scientific information isn't ultimately altered by the Council. It has that option to do that under O.Y. It doesn't need to deal with the scientific recommendations of this, and I think they are parallel in interest.

Senator GORTON. Why don't you pursue the comment that you made to Senator Packwood? What would you regard as an appropriate or an ideal way of limiting entry, and would you say—I hope I'm not putting words in Senator Packwood's mouth, but I think he is somewhat critical or has some reservations about the New York taxi system design, and in some of those places shouldn't the Federal government or the Council or something like that get half the proceeds?

Senator PACKWOOD. I don't know what we're facing, if the commission gets a cut.

Senator GORTON. I don't think it gets it at all.

Dr. ALVERSON. Well, of course, I want you people to know that first that my recommendation of the so-called effort limitation in the Act is important to the economic incentives to maximize the economic returns, but massive overcapitalization also causes a large biological waste in terms of by-catch, safety at sea and also causes a problem for the consumer.

How do we do it? Well, obviously my recommendation is the simplest way to get started on it is through the license limitations. You just come in and say licenses are going to close at this point in time. Then you decide if they're resalable or if they go back to the

state or the federal government at the time they're given up, and they're reoptioned back to other interested parties.

That does not close out the system. If there's a method that those can turn over, people can buy out, like anybody else buying into an industry, you buy the guy out that's there, and get into that particular industry.

The problem is that most of our fisheries we have let the system go too far. Most fishermen that I talked to don't like limited entries because they asked the question how does my son get into this business? I think if you're going to develop a limited entry system you have to find a way that there is an option for new entrants. How do they get in? Do they get in by buy-out, do they get in by a lottery system? These options need to be explored. Just because it's difficult I don't think you can ignore facing the problem.

Senator GORTON. You're making a recommendation on limited entry. Let's go to the next step, which I don't think you made recommendations here on unless I slipped over something.

Do you believe that the Congress should involve itself in the course of reauthorizing the Magnuson Act in saying who catches what or who processes what?

Dr. ALVERSON. I think that the Act now provides for an allocation system if you can justify it based on the best interests of the United States as a whole. There have been allocations made under the Act. It allows the Council to give it to shoreside processors or at-sea processors. But I think if you're going to do that you have to make such a decision early in the game that you don't attract a tremendous investment into a fishery and then turn around and disenfranchise the investors. We don't think Congress needs at this point to start making decisions of who is the most competitive. If you limit the number of licenses and then started looking at options of how people would enter a field it would be a start.

I would say I think it's frivolous for Congress to continue to support—half my clients are going to stop using me for saying this—low-interest loans to stimulate the fishery, to provide C.C.F. funds that must be put back into bigger boats—that's exactly what we're doing—and then turn around and say we've got an overcapitalization problem, and you guys must get out.

I think it's time to relook at those sorts of incentives and see if they are any longer germane in U.S. fisheries?

Senator ADAMS. Mr. Bevan, you had a comment you wanted to make?

Dr. BEVAN. Mr. Chairman, If I may add, I think this is probably one of the more important aspects in the reauthorization of the Magnuson Act and my judgment would be we should not, in the Magnuson Act, say who is going to get the fish, but that's our major problem right now. We don't have enough fish to go around and you're either going to directly or indirectly make that decision.

But the process as to how that takes part should be very clearly stated. Who makes the decision and how do we make that decision. That's going to have to be done and we're going to get into that kind of business. We can't avoid it. We do it in different ways with different resources, but the fisheries, I agree with Dr. Alverson, we need to have some direct control of effort. I don't want to see that

written down in the Magnuson Act. I'd like to see enough flexibilities and have it done in different ways in different fisheries.

Senator ADAMS. Well, I might state that as a former Secretary of Transportation I've had a lot of experience with licensing and with permitting, and we had a very elaborate system in airlines, trucking, all of the others in licensing, and the problems arise just as Senator Packwood has mentioned. You have to decide what the process is. In most cases, we set up a separate group to establish the process so that it wasn't written specifically in the statute. When it was in the statute, we got to a point where you could carry nails but you couldn't carry shingle nails, and you could go from Point A to Point B but you couldn't go from B to C.

And here we have a very complex industry where we have people out fishing various species, using various differing kinds of equipment. Now, I agree with you and I hope we can take back the message and develop at least three points out of what has happened this morning.

One, that we must have some system for limiting effort, because we are right back to where we were when Magnuson and I had to pass legislation so that everybody went down to Olympia and turned in their boats. We bought out the whole fleet once, and it looks to me like we're heading toward buying out the whole fleet again. I would like to avoid that.

So I think that we do need licensing or limiting effort, but I certainly agree with my colleagues here that we haven't heard yet, what that process should be. That's one.

The second point is to develop a type of user fee to fund this, and that goes with the licensing. In other words, your licensing can include a fee system. I also agree that probably a charge based on tonnage is valid in the sense that you have differing sizes of ships. I know the concerns of the states with their protection that we have to do that with gasoline taxes and all kinds of things. I've heard that this morning.

The third problem that we've heard about is enforcement and the need for a better enforcement system. That ties to a financing system. Appropriation money is very difficult to come by and I would hope that we would get our money first into the research and data area because I think we are in very bad shape there. I'm not denigrating the enforcement effort at all, but I get the impression from the panels that the data base has vanished since we've lost the foreign observers. That data base is essential for establishing yield, for establishing allocations, for establishing conservation and resource programs.

It is for many of us just as though we had been hunters in the wilderness for many years because we came out of an industry where the problem was what could you catch, not who else was out there, and now, it seems like the New York taxicab drivers.

In closing, the record will be left open for two weeks for additional questions that members of the committee may have and it will be left open for two weeks for statements by members who were unable to attend. An it will be left open for two weeks for testimony by people who were unable to testify and we will make those part of the record.

We're specifically expecting testimony, and I want to state this publicly so that they are aware of it and we receive it, testimony from the State of Washington and from the Northwest Indian Fish Commission.

I want to thank everyone here for their participation. I particularly want to thank you for observing the time limits. I know that is very difficult, but you have allowed us to obtain an enormous amount of information for our colleagues in a very short period of time. And I want to personally express my appreciation to Senator Bob Packwood and Senator Slade Gorton for the wonderful cooperation that they have not only given but for being able to be here this morning so that we could conduct this hearing.

With that, this hearing stands at recess, subject to call of the chair.

[Whereupon, at 12:25 p.m., the hearing was adjourned, subject to the call of the chair.]

ADDITION ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF GREG ROCZICKA, RESOURCE COORDINATOR, NUNAM KITLUTSISTI

My name is Greg Roczicka and I am here today to present testimony in behalf of Nunam Kitlutsisti, a non-profit organization based in Bethel, Alaska, where I hold the position of resource coordinator.

I would like to speak in support of the Fishery Conservation and Management Act and strongly urge its re-authorization. This Act is a vital piece of legislation that provides an irreplaceable level of protection to our extremely important fisheries resources. In addition it needs strengthening to ensure the very survival of our fisheries, maintain the current level of productivity, and provide a greater level of equitable utilization than now exists.

I would like to submit the following comments to allow for better management practices and further protection of this invaluable resource.

Since the Act's implementation several years ago domestic fisheries have moved to become a replica of the foreign fisheries that instigated the Act's creation in the first place. The Act's re-authorization must address responsible management practices to prevent further irresponsible harvest methods and waste of the resource. The continued by-catch/interceptions, dumping, and waste of non-target species (specifically salmon, herring, and halibut) must not be tolerated any longer. This is a major threat to the survival of the many fisheries and peoples which are dependant upon them for their basic sustenance and economic security.

Additionally, salmon are difficult to responsibly manage as a high seas fishery. The potential for the interception of an entire discrete stock of a terminal stream is too great a risk to take, and the results would be catastrophic to those who are dependant upon this harvest for their winter food supply.

The technology currently exists to avoid these interceptions, but mega-bucks industry has so far refused to employ it voluntarily. Indeed, their attitude appears to be one of smug indifference. Their methods are in many cases inappropriate, unfair, and irresponsible. The re-authorization of the Act must take action to remove this threat to the survival of terminal stream fisheries.

A prime example of the inadequacies stated above is the status of King Salmon on the Kuskokwim River. Currently fishermen on this river are subjected to several restrictive measures on the taking of this species during commercial harvest due to concerns over their population levels by the Alaska Dept. of Fish and Game. King Salmon are a preferred speices by buyers and fishermen alike, yet their catch continues to be curtailed at an average annual take of 20-30,000 fish. At the same time the Bering Sea trawl fisheries are allowed to dump over 100,000 dead King Salmon back into the ocean as a result of their being a non-target species. This waste must be stopped.

Fishing is the only viable economy in the Kuskokwim region. The majority of the people living there exist at below poverty levels. The continued disregard of the existing situation reeks of inequity and constitutes gross negligence of responsible management principles. Yet it has been allowed to escalate for years. This practice must be stopped and an enforcement program instituted to ensure compliance. If history is any indication the industry will certainly not act by itself.

The issue of enforcement on the whole needs to be addressed to a greater extent. Without it all the good intentions stated by this Act are only so much lip service. Without it the destruction of our fisheries by the greed motivation will continue apace.

I submit also that the makeup of the North Pacific Management Council needs to be restructured. Representation should be mandated to allow for adequate representation by the terminal stream fisheries which are so desparately affected by high seas fleet interceptions. Currently their voices are ignored by the billion dollar industry interests that continually over-ride their concerns for preservation, equitable, and responsible management, of the resource.

Although the Act set the 200 mile zone for national interests it should also provide recognition for the needs of more restrictive geographical areas. Again it must be stressed that it is only at this level that proper management can be achieved.

The Act should be amended as well to allow a portion of the harvestable resource to be reserved for those areas which are adjacent to the actual fishery and are primarily responsible for fostering the resource without being able to reap any of the economic benefits. This reserve should be set by law at a minimum of 5–10% of the available biomass per designated regions.

At present the NPFMC is being requested to exclude any further entry into the Bering Sea fishery by calling for the imposition of a limited entry system. This may be a good idea in the long run, but only with due deference and consideration given to more specific regional needs.

At the same time that a limited entry is being pursued, the same industrial interests are asking the NPFMC for an approximate 30 percent increase of their allowed take (TAC) in the Bering Sea. These two issues clearly conflict with one another and present another prime example of the existing industry's attitude of self interest and exploitation, regardless of the cost or consequences to other user groups.

The Act's very title and content leave no room for debate. It is to ensure proper management and conservation of our vital fisheries resources. In its first 12 years it has initiated a good base for this to become a reality. Under current conditions however, it is still lacking and should address management guidelines with a more proper perspective to prevent over exploitation and irreparable harm to the fisheries. Its implementation at present shows obvious conflict as well, with its mandate to assure equitable allocation of the resource.

I thank you for this opportunity to state my concerns and hope for your positive consideration and support on the issues which I have raised. Thank you for your time.

STATEMENT OF JOHNE BINKLEY, ALASKA STATE SENATOR

Mr. Chairman:

I appreciate the opportunity to include these comments into the written record following your Alaska field hearing on July 6 concerning the reauthorization of the Magnuson Fishery Conservation and Management Act.

The legal and illegal interception of Alaska salmon and steelhead on the high seas has created serious conservation and management problems in Alaska's fisheries. As Co-chairman of the Alaska Senate Committee on High Seas Interceptions, I have heard fishermen all across the state describe how their directed commercial and subsistence salmon harvests have been severely reduced or eliminated as a result of these interceptions; how the international sale of salmon harvested by American fishermen and sold by American processors have been undercut; and how the state's conservation-oriented management program as well as the state's hatchery rebuilding program, in which we have invested hundreds of millions of dollars, have been defeated.

In addition, as the state legislator representing much of the coast of western Alaska as well as the entire drainages of the Yukon and Kuskokwim Rivers, I have seen the income that my constituents derive from fishing diminish substantially due to the foreign interception of salmon originating in these areas. Most of the fishermen I represent rely on salmon as the mainstay of their subsistence way of life, supplemented with the small amount of cash earned by the sale of some of those fish commercially. The average annual income in this region is little more than $5000 to $6000, and the economic losses caused by foreign interceptions have a significant impact.

The harvest of Alaska's salmon by foreign fishermen on the open ocean seriously calls into question the economic viability of many of these people, and

is nothing short of piracy on the high seas - a piracy that can no longer be tolerated.

I believe reauthorization of the Magnuson Fishery Conservation and Management Act this year provides a unique forum to hasten the end to such piracy. For that reason I introduced and received the unanimous support of the Alaska Legislature for a resolution calling for a number of amendments to the Magnuson Act. I am including a copy of that resolution for your information.

The majority of these amendments seek to strengthen the United States' hand in protecting its anadromous species on the high seas. They would clarify our rights to board foreign vessels fishing for North American salmon (legally or illegally), establish a rebuttable presumption for enforcement purposes, and mandate various enforcement, information-gathering, and observer requirements for the purpose of documenting and hopefully minimizing high seas interceptions.

The Alaska Legislature also is asking Congress for a declaration calling for the end of high seas gillnet fishing beyond the Exclusive Economic Zones of all nations by 1992. I believe the State Department's recent agreements with Japan and Taiwan over management of their squid driftnet fleets highlights the importance of such a declaration.

I have very serious concerns with the details of these latest agreements, and don't believe they put a sufficient burden on foreign fishermen to eliminate the impacts of high seas driftnetting. Too few observers and minimal enforcement and monitoring provisions are serious drawbacks and have resulted in agreements with little teeth.

In fact, these minimal requirements put almost the entire enforcement burden upon the United States, not the foreign nation. We know that the cost of a meaningful, scientifically significant monitoring and enforcement effort is expensive, and so far has received little, if any, support from the federal government. For this reason, I believe it is time to stop trying to regulate these foreign fisheries and instead, to call for an international ban on all high seas driftnetting. The United States should focus all of its efforts on forging a new international treaty devoted to the protection and conservation of the marine resources of the international oceans, including anadromous fish, marine mammals and seabirds. Such a treaty should detail a new regulatory regime for high seas management outside each nation's Exclusive Economic Zones.

Foreign interceptions on the high seas is not the only issue that should be addressed with amendments to the Magnuson Act. Management of fisheries within our own 200 mile limit should also be addressed through this process. When the United States extended its jurisdiction over the 200 miles of waters off its coast in 1976, foreigners harvested all of the groundfish off Alaska, with little regard for conservation of the resource. Now however, Americans are catching 100% of the fish and processing nearly half of them. This rapid Americanization of the fishery has led to fierce competition on the fishing grounds and to increased concern over the current management system and its ability to protect the resource.

The large boats needed to participate in these fisheries require huge capital investments that have not been available for the most part to nearby coastal communities who have had an historic interest in participating in these fisheries.

Other nations in the Pacific have been forced to grapple with similar problems, and such nations as Australia, New Zealand and even Japan have made some provision to allow entrance into these fisheries by their smaller coastal communities.

The Magnuson Act already acknowledges the need for some kind of a community set-aside by recognizing as part of National Standard 4 that regional councils should take into account the economic and social consequences of existing coastal communities when regulating fisheries, [50 CFR 602.14(c)(i)(B)(iv)]. Commercial fishing generates more than 7% of the total state income and 27% of the personal income of the private sector. But in rural regions of the state, where people are often lucky to make $5000 a year, income from fishing represents a much greater portion of the community's total income. Few other cash jobs exist. Historically, these communities have depended upon the resources of the sea for hundreds of years.

The Magnuson Act should be amended to give the regional councils the authority to provide additional opportunities for traditional fishing communities, which would allow them eventually to participate in either the harvesting or processing sectors of the fisheries. A system needs to be designed to allocate the available fisheries resources so that shore-side processors are protected and so that smaller, coastal communities will be able to enter these fisheries.

When foreign fleets fished in U.S. waters, they were required to have 100% observer coverage so that fisheries managers could have reliable data on catch numbers. In addition, these fisheries were prohibited from displacing existing domestic fisheries on fully-utilized stocks. Federal managers required a low by-catch rate on prohibited species.

However, such policies have not been required of the American fleets that have now taken over the groundfish fisheries. As a result, we no longer have accurate information on the harvest of either the target fisheries or the species caught as by-catch.

What information we do have indicates that the by-catch of halibut, crab and herring in particular are so high that in many cases, they prohibit Alaskans from having directed fisheries on these same species. Yet in almost every case, there is no logical reason that trawlers should have such high by-catch percentages. However, there are no incentives, either positive or negative, to modernize current fishing techniques in order to minimize and eliminate these by-catch species. Conservation of these species dictates that Congress provide such incentives, and the Magnuson Act should be amended to do just that with a program to be funded by the user industry.

In addition, statutory language should be included which mandates the conservation of existing, fully-utilized fisheries. Historic fisheries should not be displaced by newer fisheries with more mobile gear.

Mr. Chairman, I appreciate the opportunity to submit these comments to your committee for your review. The Magnuson Act was a truly historic piece of federal fisheries legislation which established the United States as the world leader in rational marine fisheries management. Reauthorization of the Magnuson Act this year provides a unique opportunity to further promote the conservation and rational management of these most important resources, and I urge you to take a leading role in this effort.

CENTRAL BERING SEA FISHERMEN'S ASSOCIATION
PO BOX 88
ST. PAUL ISLAND, ALASKA 99660
JULY 27, 1989

HONORABLE TED STEVENS
UNITED STATES SENATE
522 HART SENATE OFFICE BUILDING
WASHINGTON, D.C. 20510

DEAR SENATOR STEVENS,

Thank you for the opportunity to present testimony at the July 6, 1989 Senate Commerce Committee hearing in Alaska on the reauthorization of the Magnuson Act. At the hearing, you asked how our proposed Pribilof allocation (as set forth in a Fur Seal Act (FSA) amendment proposed to your Committee), would be used during a developmental period, when we are unable to actually harvest because of not having vessels. We offer the following explanation. We are providing a copy of this letter to the National Ocean Policy Study Subcommittee, for inclusion in the Magnuson Act hearing record.

At your hearing, and in our statement before the NPFMC attached thereto, we stressed our need to bring fishery-dependent investment and jobs to the Pribilof Island. This is necessary so that we can repay the $100 million debt and equity investment (approximate) which Island entities, the State, and the Federal government, have made in the islands since 1983, to develop a fishery-based economy on the Islands. Our proposal to the NPFMC in April explained how we intend to transition into Pribilovian ownership of vessels and on-islands processing projects.

Therefore we would regret to hear that someone would suggest that we would sell or lease our allocation to others merely to "clip coupons" by leasing or selling our allocation to others, with the proceeds and the fish taken elsewhere. Our objective is to use the allocation (1) to obtain funds to invest in harvest and processing capacity based on the islands, and/or (2) enter into ventures with others who will commit capital to on-islands projects, on the strength of our guaranteed fishing opportunity.

Just renting ground to others won't provide enough income to pay debts; we need to be investors in these projects and to participate in fishing. Clearly, unless jobs and capital investment by Pribilof entities are committed to an Island-based fishery economy, there is no way we can repay our various loans or that the government's other investments on the Islands can yield net economic benefits.

To us, investment on the Pribilofs is not a question of new opportunity, it is a financial and social imperative. As we said

in our testimony, few, if any, Alaska coastal communities have the debt and equity outstanding that we do, dependent on future fisheries access they do not now have. Congressional plans for inviting outside capital to develop Aleut properties and process the local and industry catch become hypothetical exercises unless we can guarantee that fish will be brought to our islands or caught by Pribilovian enterprises. Our efforts in our local small boat halibut fishery demonstrate our seriousness about harvesting fish.

So, the justification statements for our proposal refute any suggestion that we simply wish to sell or "clip coupons" with our allocation and not use it to create the self-sustaining economy that Congress chartered. [Ironically, NPFMC allocation schemes under discussion (e.g., ITQ's, limitation of licenses or keels) would create franchises which would permit passive profiteering on the resource.]

In the first few years of our allocation-use plan, while developments are ongoing on the Islands, we might negotiate agreements with several existing, displaced JV vessels to catch and possibly process the allocation. As you know, we have no local vessels with the size or capacity to participate at this time. Our contribution to such arrangements would be the right to catch the Pribilof allocation. The terms of an agreement would be for a fixed number of years, so that we could phase in locally-owned and operated catcher boats to provide a shorebased plant. Under no circumstances would we simply sit back and seek a royalty by selling our resource right. We fully intend to retain ownership of the allocation, to be active participants in its use, and the development potentials it would provide. We would have no reservations about our allocations being so conditioned.

Development of shorebased processing capability is similiarly hampered by our present state of development and by limited entry proposals. Harbors in both communities are still incomplete, although very promising progress is being made. Many of the larger companies have committed to someplace else, like Unalaska/Dutch Harbor, and gone forward with major investment decisions. Both St. Paul and St. George have met and diligently pursued leads with various fishing industry entities to consider investment on both Islands. Mostly, the response has been: "give us a call back" when the harbors are completed.

Moreover, and as you understand better than others, with the over-capitalization in bottomfish catching and processing capacity, ashore and afloat, investors are leery about committing new capital. Particularly now, with the prospect looming on the horizon of limited access, or even processing preference, to be based on past presence in the industry. Because developments are occurring so rapidly, and because harvesting and processing capacity are showing every sign of expanding in excess of available resources, our time-delayed onshore developments might be regarded as surplus, from an investment standpoint.

Our fishermen are alarmed that their high hopes for larger vessels and greater future participation in the fishery would be dashed if the limited access systems proposed were adopted. The present actions of the NPFMC over sablefish adequately demonstrated that this concern has some foundation. Neither allocation schemes now under consideration by the NPFMC (ITQs and license limitations) would include the Pribilofs, and both would create franchises whose prices would exceed our means.

As we listened to the NPFMC debate the issues, it became clear that waiting for harbor development, and then seeking resource access, would be ineffective. There is a ballooning tendency of the fishery to overinvest, and the NPFMC apparently is unable to curb factory trawler appetite for resources. Thus, we sought a way to begin operation in the fishery, even though full development of facitlities on our islands may be a few years off.

We feel that a usable resource guarantee of a small amount of bottomfish TAC would best serve our purposes. First, it would allow us to leverage an immediate entry into shorebased fisheries, because some vessel or several would have an incentive to work with us. We targeted the displaced joint venture vessels as the nmoast obvious candidates. We felt that, over the years, this concept would work well, with local fishermen phasing into larger vessels as harbor facilities and local investment capital are developed sufficiently to accomodate them.

Second, we felt that a guarantee of resource access would encourage a closer look by potential investors in onshore developments on the islands.

Thirdly, allocating TAC to the Pribilofs would have an effect on overinvestment in the factory trawler sector of the industry, and ultimately would benefit our Bering Sea ecosystem from a conservation standpoint. We simply do not see the long term wisdom of over-concentrating fishing effort on the pollock resource. Given that pollock are food for marine mammals and other commercial fishery resources, depletion of pollock stocks will have a chain effect on other fishery stocks. Indeed, it has already affected fur seals, sea lions, and longline halibut and crab fisheries in the Bering Sea and throughout the North Pacific. The lessons of the Atlantic fisheries are all too clear.

Thus, finally, our geographic location and long term plan dictate the targeting of lesser utilized flatfish resources in our area. TAC in these species is typically a smaller percentage of ABC than is pollock.

We would be willing to accept some time constraints on Aleut use of allocations, but maximum flexibility in use of an allocation over the near term is necessary.

Of course, we are pleased that shorebased preference and

coastal community preferences are being considered in the Magnuson Act discussion. We would feel much more comfortable however, if we had bottomfish processors onshore. Any proposal that, by virtue of its wording, or other location or market factors, operates to lock in past shorebased or offshore market investment, and to lock out future shorebased investment on the Pribilofs, poses a problem for us. And a lumping of the Pribilofs in some preference scheme with other shorebased markets in Alaska would not necessarily focus private investment on the Pribilofs to a degree necessary to avert financial and social disaster.

Thank you again for the opportunity to provide both our original and these supplemental comments. We look forward to your assistance in finding some solution for Pribilof access to Central Bering Sea resources. We would be pleased to discuss our proposals further with you and Subcommittee staff.

Sincerely,

for Central Bering Sea Fishermen's Association

cc: National Ocean Study Policy Subcommittee
St. George Tanaq Corporation
North Pacific Fisheries Management Council
State of Alaska
Senator Frank Murkowski
Congressman Don Young
Greg Chapados
Lisa Sutherland
Earl Comstock

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

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June 6, 1989

The Honorable Ernest F. Hollings
United States Senate
SD-508
Washington, DC 20510

Dear Senator Hollings:

I want to express our appreciation to you for the hearings held by the National Oceans Policy Study on May 17 and 18 on the reauthorization of the Magnuson Fisheries Conservation and Management Act (MFCMA) and recent developments regarding foreign driftnet fisheries occurring outside the U.S. 200-mile zone. I would like to provide to you some additional information you might find useful.

The MFCMA is perhaps the most important piece of fisheries legislation passed by Congress. The Act provides the framework for conservation, management, and allocation of the fisheries off our shores. It established the regime under which the United States gained control of its fisheries, established the mechanism which led to the Americanization of the immense groundfish fisheries off Alaska, and fostered the rapid growth we have seen in the U.S. fleet. The success of the Act in this regard is something that Congress can be proud of, but that does not mean that our work is complete. There are serious issues surrounding the management of our domestic fisheries, and significant conservation and management problems affecting U.S. stocks which are being caused by foreign fisheries occurring beyond our zone.

Background

In order for you to understand the significance of these issues to Alaska, let me first provide you some background information about the importance of our fisheries to Alaska and the nation. Much of the following information comes from a report released in March of 1989 entitled Alaska Seafood Industry Study: A Summary. The study was conducted on behalf of the Alaska Seafood Industry Study Commission, a consortium of 29 organizations from industry, state agencies, and the University of Alaska.

Alaska leads the nation in value of commercial seafood landings. In 1987, the value of seafood landings in Alaska was about $1.1 billion, with an estimated $1.8 billion for 1988. In 1987, the first wholesale value of the Alaska seafood harvest, after processing, was $1.9 billion. In 1988, estimates indicated that this rose to $3 billion. Fisheries off Alaska accounted for roughly 46 percent of total U.S. production in 1986 and will probably top 50 percent in the

near future. Over half a billion dollars worth of seafood were shipped directly from Alaska to foreign nations in 1987, a third of all U.S. seafood exports.

In a state with little or no manufacturing-based economy, the seafood industry is the largest private, basic industry employer, providing more than 77,000 seasonal jobs which equal 33,000 year-round direct and indirect jobs. Total investment is estimated at roughly $4 billion, and the payroll is the largest in the state among private industries: approximately $600 million. Four Alaska communities are in the nation's top ten commercial fishing ports, with Kodiak the top port in 1988. In one major region of the state, over 90 percent of the private sector income is generated by commercial fishing, and many of our coastal communities are almost entirely dependent on commercial fisheries for cash income.
The recreational fishing industry in Alaska is also a major contributor to the economy in many areas of the state. For example, in the Juneau area alone, the sport fishing industry is estimated to generate some $14 million. Contributions to the regional economy of southcentral Alaska by recreational fishermen were estimated at over $175 million in a recent study. While no good statewide data exists for the total employment in this industry or revenue generated, it is obviously a very significant part of Alaska's fisheries economy.

Subsistence fisheries are also very important to Alaskans. More than 35 million pounds of fish are caught statewide for subsistence purposes. In many rural areas of the state, the subsistence harvest value probably exceeds the importance of the commercial fisheries to the local economy. Many communities would not be able to exist in rural Alaska without the noncommercial harvest of fish and game. A minimal estimate of the replacement value of the fish caught statewide by subsistence fishermen would be about $120 million. Given the fact that, in many areas of Alaska (particularly in western Alaska), the economy in terms of cash income is one of the poorest in the United States and replacement with commercially-imported foods is unaffordable. The true importance of the subsistence fishery is even greater. In 1985, nearly 32,500 families (about 114,000 people) were supported by subsistence fisheries statewide.

International Fisheries Issues

Alaska holds a unique status as a state bounded on one side by Canada and the other by the maritime domain of the Soviet Union. With 33,000 miles of coastline (more than the rest of the U.S.) and continental shelf area more than three times the rest of the continental U.S., Alaska must play in the international fisheries arena as a matter of self-defense and economic advantage. Major issues of concern to the state include interception of U.S. origin salmon and steelhead by foreign vessels on the high seas; the unregulated pollock trawl fisheries in the so-called "donut hole" area of the Bering Sea; and the emerging fisheries relationship between the U.S. and the Soviet Union.

1. High Seas Salmon Interception

The interception of salmon and steelhead by foreign fleets is having a direct and severe impact on Alaska and other U.S. fishermen. Over the past few years, the hardest hit stocks were central and western Alaska chinook, coho, and sockeye. With the rapid increase in the size of the squid fleets of Japan, Taiwan, and Korea, the impacts are now being felt by southeast Alaska fishermen as well as fishermen throughout the Pacific northwest.

The State of Alaska has attacked the problem of high seas interception on a number of fronts. Through participation in the INPFC, we have sought to reduce the impact of the directed salmon fisheries of Japan on Alaskan stocks. Through participation in the negotiations under the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 we have sought to obtain adequate monitoring and enforcement agreements on the squid fleets of Japan, Taiwan, and Korea.

INPFC was signed in 1952 by the nations of Japan, Canada, and the United States. While a great deal of valuable research was conducted under the auspices of the INPFC, no significant reductions were achieved in the level of interceptions until adoption of the Magnuson Fishery Conservation and Management Act in 1976. The 200-mile limit extension gave the U.S. control over significant areas that had been fished by the Japanese high seas salmon fleets. In the renegotiation of the INPFC in 1978, the U.S. negotiated concessions in all of the Japanese high seas salmon fisheries while allowing them to keep a limited area in our zone. This recognition may have reduced interceptions by as much as 70 percent. The results were most dramatic for Bristol Bay sockeye and western Alaska coho.

Another series of bilateral negotiations took place in 1985-86, resulting in further phase-outs of the Japanese mothership fishery in the central Bering Sea. Restrictions were achieved on allowable effort in their mothership fishery as well as some pull-back in their landbased fishery.

In 1988, the Japanese fishery was excluded from our EEZ due to litigation by western Alaska fishermen and environmental groups. Court action denied the Japanese a marine mammal taking permit under the Marine Mammal Protection Act (MMPA), and subsequent action by Congress amended the MMPA to prohibit the Department of Commerce from issuing the Japanese a permit. As a result, the Japanese have requested, through the INPFC, to convert their mothership-style fishery to a landbased-style operation because of lost fishing area. This has led to a series of negotiations between Japan, Canada, and the U.S. The U.S. side has developed a set of requirements which would provide adequate monitoring and enforcement on the converted fleet to ensure that the fleet fishes in designated areas and does not exceed the quota. In early April, the Japanese broke the talks off and decided that,

at least for the 1989 season, they would fish in a mothership-style mode. However, they have voiced a desire to resume these talks for the 1990 season.

In addition to the directed salmon fleet of Japan, the rapid growth of the squid fleets of Japan, Taiwan, and Korea present significant risks to U.S. origin salmon and steelhead. Negotiations conducted under the auspices of the Driftnet Act of 1987 for monitoring and enforcement agreements on these fleets have not been successful to date. The talks with Japan have gotten the farthest, and tentative agreements were reached in Tokyo in early May of this year. The agreements would have established the first true observer program in a squid fleet, and provided for increased enforcement measures by the Government of Japan. However, there is considerable concern in the U.S. industry that the terms of the agreements with Japan were not sufficient to obtain reliable data regarding salmon bycatch.

The State of Alaska believes that there is a desperate need to develop information regarding salmon and steelhead interception in the squid fleets but has serious reservations regarding these agreements and whether or not they satisfy the requirements of the Driftnet Act. The largest problem with the agreements that we see is the lack of real time monitoring of the fleet in 1989, and the weak commitments for satellite monitoring and an expanded observer program for 1990. The Secretary of Commerce determined in late May that the agreements were not adequate to meet the requirements of the Driftnet Act. The State of Alaska has strongly urged both the Secretary of Commerce and Secretary of State to go back to the table to strengthen elements of these agreements.

2. Donut Hole

The state is also concerned about the rapid expansion of the unmonitored fishing effort for pollock in the international waters of the Central Bering Sea. While the magnitude of these catches cannot be accurately substantiated, their growth is coincidental with the displacement of foreign fleets from our EEZ. The reported magnitude of these catches now rivals the total allowable catch in our zone. Several hypotheses have been advanced regarding the relationship of the stocks in this area to the stocks in the U.S. and U.S.S.R. 200-mile zones. Adequate population surveys, tagging and migration data, or data on the biological composition of the catch still do not exist to quantify the effects of massive removals of fish from this "donut hole" area on domestic pollock populations. There is, however, a growing body of evidence that this unregulated harvest could impact eastern Bering Sea pollock populations in the U.S. zone.

Similarly, there is no estimate of the incidence of salmon bycatches in this newly expanded fishery. We do know that

chinook salmon can be taken in significant numbers in trawl fisheries, and we know that chinook salmon found in the donut hole area are overwhelmingly western Alaskan in origin. Thus, unregulated trawl fisheries in this area could pose a significant threat to Alaska salmon resources as well.

While there may be a lack of information regarding the biological relationship of pollock stocks in Bering Sea international waters to those in our zone, observations of illegal fishing by Japanese vessels and the current low enforcement effort by the U.S. in this area further lead us to believe that a substantial portion of this catch could be coming from stocks already considered fully utilized by U.S. domestic fishermen. We believe that these fisheries present vast potential for damage to both our domestic groundfish stocks and to salmon populations which are of considerable economic importance to Alaskan residents, particularly in western Alaska.

3. U.S./U.S.S.R. Fisheries Negotiations

The State of Alaska has taken a great interest in the ongoing development of the fisheries relationship between the U.S. and the U.S.S.R.. In May of 1988, the United States and the Soviet Union signed a comprehensive fisheries agreement which was subsequently approved by legislation in Congress as a GIFA under the MFCMA. The agreement established an Intergovernmental Consultative Committee (ICC) to coordinate U.S./U.S.S.R. fisheries matters, and the legislation established a North Pacific and Bering Sea Fisheries Advisory Body to advise the U.S. Section on the ICC. The state is represented on the advisory body by the Commissioner of the Alaska Department of Fish and Game.

The state believes that the emerging relationship between the U.S. and the U.S.S.R. presents one of the most significant opportunities to address the issues of high seas salmon interception and the unregulated donut hole pollock fisheries. In fact at the latest meeting with the Soviets which occurred in February in Washington, D.C., they put forward proposals on each of these issues. Unfortunately, although a Memorandum of Understanding on enforcement was signed at the meeting, the U.S. side was not in a position to respond to their broader proposals at that time.

The U.S./U.S.S.R. Advisory Body has taken the lead in preparing a proposed U.S. response to the U.S.S.R. proposals. For salmon interception issues the Soviets proposed establishing a new organization to regulate salmon harvests in the North Pacific. Their proposal would prohibit salmon harvests outside the EEZ's of the coastal nations. In response, the advisors have drafted a proposed convention on anadromous species which would include the major states of origin of anadromous species in the North Pacific. The draft would prohibit the taking of salmon and steelhead in the international waters of the North Pacific and

contains provisions for cooperation among the signatory parties to take action against nations which take salmon illegally.

To address the Soviet proposal on the donut hole, the advisors called a meeting on May 12 to review the U.S.S.R. proposal and prepare a recommended U.S. position. The meeting was hosted at the Northwest and Alaska Fisheries Center in Seattle. The status of knowledge regarding stock composition and movement was reviewed in detail by U.S. scientists, the Soviet proposal was carefully analyzed, and a proposed U.S. position was formulated. The proposed position would be to bilaterally establish an organizational framework to determine allocations for the international waters of the Bering Sea. This would include developing a common database and a uniform methodology for stock assessment and determining harvest levels. The advisors, recognizing the problems associated with fisheries conducted by third-party nations in international waters, wished to explore with the Soviets mechanisms for bringing these nations under the regulatory framework once it is established.

These two proposals and supporting documents have been forwarded to the State Department for federal interagency review and Circular 175 negotiating clearance. The next meeting with the Soviets has been tentatively scheduled for the end of June. The advisors have recommended that no meetings occur until the U.S. government has developed official positions and a negotiating strategy on each of these issues. This would include completion of the interagency review and securing the required negotiating authority to enter into actual negotiations.

4. Summary

The State of Alaska believes that several things need to be done to effectively address these international fisheries issues:

* Strengthen our enforcement presence in the North Pacific and Bering Sea. The Coast Guard has modestly increased its fisheries enforcement presence in the area, but budget limitations are a major hinderance. It has become increasingly obvious that the only way to protect our fish is to maintain a strong enforcement presence on the grounds, and the only way to do that is to provide adequate funding.

* Provide strong and clear language in the MFCMA asserting U.S. jurisdiction over U.S. origin anadromous species, and establishing the basis for a defensible rebuttable presumption for U.S. salmon and steelhead caught on the high seas.

* Strengthen the Driftnet Act. One of the problems with the negotiation process conducted under the Driftnet Act was the lack of suitable negotiating clout on the part of U.S. negotiators. To date, the certification and sanctions in

the Act have not been a credible threat to the other nations. The sanctions under the Pelly Amendment need to be broadened to include possible sanctions of any product imported from offending nations.

* Step up efforts to develop a cooperative relationship with the U.S.S.R. on these issues. Negotiations need to proceed as soon as possible on the salmon and donut hole proposals already on the table. The provisions of the MOU on enforcement which was signed in February need to be implemented, and further cooperative enforcement arrangements need to be pursued where appropriate.

Domestic Fisheries Issues Under MFCMA

The significance of fisheries to Alaskans underscores the importance the state places on the effectiveness of the MFCMA to govern domestic fisheries. While the Act has been a remarkable success since originally passed in 1976, the transfer from a foreign dominated fishery to a fishery which is almost wholly domestic has created new issues and management problems not foreseen at the time of passage. In order to fully realize the long-term benefits from our fishery resources we need to strengthen the conservation measures in the Act, improve our management system, and provide for a rational and fair allocation system. Recent issues surrounding the Gulf of Alaska pollock fishery, and the increasingly troublesome bycatch problem, serve to highlight our concerns.

1. Gulf of Alaska Pollock

In 1989, the total allowable catch (TAC) of pollock in the Gulf of Alaska (GOA) was 60,000 mt (33 percent lower than the 1988 TAC of 90,000 mt). The reduction arose because of uncertainties in the estimate of pollock biomass. Stock assessment for GOA pollock is normally based on annual hydroacoustic surveys of spawning aggregations conducted in Shelikof Strait, supplemented by triennial trawl surveys. These surveys have indicated annual declines in the biomass of pollock since 1981. It was assumed that the vast majority of GOA pollock spawned in Shelikof Strait. In 1988, the hydroacoustic survey indicated a biomass of only 330,000 mt (substantially lower than both the 1987 trawl survey estimate of 593,000 mt and the assumed threshold of 770,000 mt). Because of the uncertainties regarding the pollock biomass, the biomass estimate of 593,000 mt from the 1987 NMFS trawl survey was deemed the best estimate of stock abundance. A 10 percent exploitation rate was applied to this biomass estimate to yield a TAC for 1989 of 60,000 mt.

On March 23, 1989, NMFS closed the central and western GOA pollock fishery because of the projected attainment of the 60,000 mt TAC of pollock. In 1988, with a TAC of 90,000 mt, the fishery never closed and the total pollock catch was only 56,000 mt. The early attainment of the TAC was attributed to large pollock catches by the factory trawler fleet. Roe

stripping, where the eggs are taken from the females and the carcasses (both male and female) dumped at sea, was reportedly widespread. The attainment of the TAC and subsequent closure of the fishery this early in the season was unexpected and has caused widespread concern among shorebased processors in Alaska who fear that they may be forced to cease operations because of a lack of pollock to process.

The state believes that this practice is wasteful and, if carried to extremes, could adversely affect the health of GOA pollock stocks. These events have prompted several proposals to the North Pacific Fishery Management Council (NPFMC) to ban roe-stripping because of concern over waste of pollock and possible adverse effects on the population as a result of the practice. As a result of the proposals, the NPFMC has directed its plan teams to develop, for initial review at the June council meeting, an amendment to ban pollock roe-stripping. A final council vote on the ban will be scheduled for September, following public review this summer. Any action the council takes on the roe-stripping issue is intended to be in place by January 1, 1990.

2. <u>The Bycatch Issue</u>

The issue of "bycatch" is becoming an increasingly complex and controversial topic. The use of nonselective harvesting methods such as trawls, longlines, and pots often yields catch composed of a variety of species including both target and incidental (bycatch) species. Conflicts arise when bycatch in one target fishery can potentially reduce the amount of resource available to a different directed fishery. In extreme cases, this can even exacerbate conservation problems for species or stocks with low or declining populations and which are subject to high bycatch rates. Incidental catch of halibut, Tanner crab, king crab, herring, and salmon have been of particular concern in the groundfish fisheries off Alaska.

For example, red king crab stocks have yet to recover from the declines of the early 1980s. Halibut stocks are also declining, and the halibut quota is projected to decline by roughly 10 percent for 1990 and 15 percent for 1991. Herring fisheries in the Bering Sea are also experiencing significant declines, and some fisheries may be closed if the populations continue to fall. These population problems are due to a combination of factors and cannot be attributed solely to bycatch. However, significant bycatch rates of depressed species can amplify existing biological and management problems and frustrate attempts to rebuild stocks.

A variety of approaches have been used or proposed to limit bycatch. One method is to restrict certain fisheries from specified areas at selected times. Another method of bycatch controls is to establish allowable rates or "caps" on the amount of bycatch species taken in a particular fishery. If the rate

or "cap" is exceeded for a bycatch species, the fishery would be closed. This is the most widely used method in the Alaska groundfish fishery. However, approaches based on bycatch rates or caps require some means of estimating the normal rates of bycatch for various species, and the only reliable method of obtaining these rates is from onboard observers.

The roe-stripping and bycatch issues are both conservation and waste issues. They serve to outline the need to strengtheh the conservation provisions of the Act, and point up the need for accurate and timely information from formal research efforts as well as directly from the fishery as it proceeds on the grounds. It is apparent that if we are to realize the full benefits from our fisheries, then we need to take the responsibility to manage those fisheries seriously.

In December of last year, the Scientific and Statistical Committee for the North Pacific Council found that the data on GOA pollock were insufficient to reliably estimate pollock biomass. In January of this year, the North Pacific Council went on record declaring that the lack of observer data on the domestic fishery was preventing the council from meeting its responsibilities under the MFCMA. Clearly, fishery managers cannot manage without accurate information, and this situation needs to be rectified.

The state believes that a number of steps should be taken during the reauthorization of the MFCMA to address these problems:

* Strengthen the conservation provisions in the Act to address waste and conservation issues. The purposes and national standards of the MFCMA set the standard for fisheries management and utilization. Conservation of our fisheries resources should be the primary purpose of the Act, full utilization of caught fish and the elimination of wasteful practices should be a major goal.

* Require 100 percent observer coverage on all fisheries unless a fisheries management council decides that it is not warranted. Such a provision in the Act would ensure action by the councils to address fisheries where 100 percent observer coverage is not necessary or practical, yet would also ensure coverage of those fisheries where information is needed. Most importantly, it would set a high standard and would provide the flexibility to fishery managers and the councils to develop programs which take into account the differences among various fisheries.

* Provide a clear and reliable funding mechanism for fisheries management and research. Observer programs, fisheries research, and fisheries management activities are all costs of doing business if we are going to manage our fisheries in a manner which ensures the long-term

biological health of our stocks and maintains the economic base of the industry. Industry will have to share in this burden. In Alaska, revenues collected by the state from industry are sufficient to cover the costs of fisheries management. The state believes that this should be the case in federal fisheries as well. Any steps taken to accomplish this goal should ensure that fees collected from a particular region go back to that region for fisheries management purposes and that the fee structure is fair and distributes the burden equitably.

As a final point, allocation of our bottomfish resources is becoming a more contentious issue each year. There are substantial indications that the offshore fleet is rapidly approaching overcapitalization. This will place ever increasing pressures on the resource and the fisheries management system. The GOA pollock problem mentioned earlier is a good example of what we can expect, and there may be a need to provide a preference for shorebased processors to prevent similar occurrences in the future and maintain an economy for our coastal communities. The state firmly maintains that any limited access system for the groundfish fisheries off our shores must include adequate provisions to ensure that Alaskan fishermen are not precluded from the fishery. As we continue to develop these fisheries, we must not forget the small fishermen, and the needs of the smaller rural communities in our state which depend on fisheries for their livelihood.

Thank you for including this information in the hearing record. The State of Alaska stands ready to work with you and the committee to address these important fisheries issues.

Sincerely,

Don W. Collinsworth
Commissioner

cc: National Ocean Policy Study Committee Members
Alaska Congressional Delegation
Governor Cowper

ALASKA TRAWL FISHERIES, INCORPORATED

July 18, 1989

Honorable Brock Adams
513 Senate Hart Office Building
Constitution Avenue and Second St., N.E.
Washington, D.C. 20501

RE: Magnuson Act Reauthorization

Dear Senator Adams:

We of the Washington/Oregon distant water fishing industry very much appreciated the interest in our affairs demonstrated by you, Senator Gorton and Senator Packwood during the recent Commerce Committee field hearing on Magnuson Act reauthorization. Before assuming my present position I worked as a federal fishery lawyer and manager, and represented a major trade association of fishermen who harvest groundfish and crab in the Bering Sea and Gulf of Alaska. I would like to offer my perspective on some of the facts and policy issues which were discussed during the field hearing.

FACTORY TRAWLERS

Large trawlers which harvest and process groundfish at sea are the logical and economic response to the physical and market forces which dominate our industry. Weather in the North Pacific is rough and unpredictable. Only large vessels can work safely in that environment throughout the year - size is critical. Fish move. Stocks fluctuate over time due to biotic and abiotic environmental changes which we do not fully understand, regardless of fishing pressure. Harvesters and processors must follow the fish - mobility is critical. We are primarily reliant on foreign markets for our product, and quality is everything in those markets. Fish spoil fast, and are seriously damaged by repeated handling and freezing. The highest quality is achieved by quick processing at sea - quality is critical. Factory trawlers focus their efforts on low-priced species, which must be processed in volume and with efficiency in order to meet stiff foreign competition in the world market - volume and efficiency are critical. Throw these factors in a pot with a couple of Ballard Norwegians, and you get a factory trawler. Our foreign competition reached this conclusion years ago, and their distant water fleets now girdle the globe. American fishermen are now demonstrating that they can compete in this international industry - they are achieving the goals set forth in the Magnuson Act. The factory trawler is the key to long-term success in the rational development of our fishery resources.

Fishermen's Center, Suite 201, Fishermen's Terminal • Seattle, Washington 98119
Telephone 206/286-8132 • Fax 206/286-1932

BYCATCH/DISCARDS

Different species of fish do not live in separate areas, but intermix. Trawls, longlines, pots and gillnets harvest non-target species along with target species. It is a problem common to all gear types, and it is unavoidable. At the field hearing a videotape was shown in which halibut were gaffed and discarded from a factory trawler. Somehow there were no tapes of halibut and cod being caught in crab pots and eaten by sand fleas or cut up for bait; neither were there tapes of halibut caught and discarded in the blackcod longline fishery. The tragedy is not that bycatches occur in all fisheries, but that the bycatchs of valuable species such as halibut are not retained, processed and sold. Bycatch mortalities are included in the annual calculations of harvestable yields, to prevent overfishing. There is no good reason to throw valuable species back into the sea. It has been suggested that retention and sale of these dead fish could provide adequate revenues for needed biological research. Why does NMFS/NOAA allow the perpetuation of such wasteful practices?

COUNCIL REPRESENTATION

Factory trawl and other trawl interests have no representative on the North Pacific Fishery Management Council. Rather we are confronted by an array of competitors whose main aim is to curtail our activities. The entire distant water fleet of Washington and Oregon is generally underrepresented on the Council, which is dominated by appointees from Alaska. The Magnuson Act should be amended to provide equal representation on the Council for fishermen from the three states whose fishermen and processors work in the Bering Sea and Gulf of Alaska - Washington, Oregon, and Alaska. Representatives should be carefully screened according to the standards set out in the Magnuson Act, and should be selected for their exclusive dedication to fishery management - the Council is not an appropriate place for once and future state politicians. The NMFS Regional Director and the State fisheries directors should not be voting members of the Council.

LOCATION OF COUNCIL MEETINGS

The Magnuson Act should be amended to provide specifically that meetings of the North Pacific Fishery Management Council be held in Washington, Oregon and Alaska on a rotating basis. It is entirely unreasonable that industry representatives from Washington and Oregon should have to travel constantly to Alaska to defend their interests.

STANDARD FOR SECRETARIAL REVIEW

At the field hearing, many observed that NMFS/NOAA has failed to meet its responsibilities in the administration of the Magnuson Act. For some unexplained and undoubtedly political reason, the agency has abandoned its role in the careful scrutiny and analysis of fishery management recommendations from the Councils. Professional managers, scientists and attorneys at NMFS/NOAA, with advice from well-qualified industry representatives, must manage our fisheries - in strict compliance with the procedures and standards established by law. Continuation of the current political free-for-all will lead to disaster.

The Magnuson Act should be amended to provide that Secretarial review of management actions be performed not under the "rational basis" standard, but under a more stringent one - substantial evidence, or clear and convincing evidence. The Act should be further amended to provide that the Secretary shall approve only those management actions which are absolutely necessary, the benefits of which clearly outweigh the costs, and which impose minimal burdens on industry.

Trawl interests have no voice on the North Pacific Fishery Management Council. Since NMFS/NOAA has effectively abandoned its oversight role through its "regionalization" policy, trawl interests have no avenue of appeal against politically-motivated attacks on their interests. In the administrative arena, we are effectively denied due process of law. Congress must take action to change this circumstance.

SHORESIDE PREFERENCE/LIMITED ENTRY

The variety and disposition of resources devoted to the harvest and processing of groundfish is the free-market response to the physical and market forces described above. No one has the ability to perform the functions of the marketplace in guiding that rational disposition of resources. No preferences or access limitation schemes should be allowed to interfere with the market. Such non-market constraints can only lead to ineffiency and endless political squabbling. As you so aptly stated at the hearing, "Once you leave fish and start managing fishermen, you are abandoning free enterprise." Amen.

With the exceptions noted, I believe that the Magnuson Act is fundamentally sound. So long as the forward-looking elements of the fishing industry are provided with representation in the administrative process, and so long as NMFS/NOAA is restored to its appropriate position in the administration of the statute, I believe that our fisheries will continue to grow and contribute to the well-being of the entire nation.

I hope that these thoughts are of some help to you. Again, my thanks for your interest.

Sincerely,

Thorn Smith

Thorn Smith
President

The Port of Newport
Oregon

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Controller

BUD SHOEMAKE
Harbormaster

RUSS CRABTREE
Marina Manager

July 19, 1989

The Honorable Ernest F. Hollings, Chairman
Commerce, Science and Transporation Committee
United State Senate
Senate Russell Office Building, No. 125
Washington, DC 20510

Dear Senator Hollings:

The Port of Newport would like to enter for the record our position regarding the reauthorization of the Magnuson Fishery Conservation and Management Act. The Port of Newport supports the reauthorization of the Magnuson Act subject to consideration being given to allow district councils, such as the Pacific Fisheries Management Council, the ability to allocate catch quotas between catcher-processor vessels and shore-side deliveries.

The Port of Newport is very concerned about the roe-stripping episode off Kodiak Island. This particular incident has already been cited by at least one Newport processor as cause to abandon a joint venture in a shore-based surimi processing facility. It is our belief that uncontrolled access by catcher processors will result in less than full utilization of the resource, as in the roe-stripping incident, and could also undermine the traditional shore-based processing economies enjoyed by many Oregon, Washington, and Alaskan communities.

It is believed that a shore-side delivery allocation or preference system could be implemented using the same procedures that were developed in the DAP process currently in effect and would assure development of shore-based processing technology, the continuation of the underlying economic base of many coastal communities, and the highest and best use of the resource as a food source for world populations.

I appreciate this opportunity to enter the Port of Newport's position into the Commerce, Science and Transportation Committee's hearing process.

Sincerely,

John M. Mohr
General Manager

Northwest Indian Fisheries Commission

6730 Martin Way E., Olympia, WA 98506 · Phone (206) 438-1180 · FAX #456-1032 · FTS #434-9476

July 28, 1989

The Honorable Brock Adams
United States Senator
513 Hart Senate Office Building
Washington, D.C. 20510

Dear ~~Senator Adams~~ Brock:

Thank you for the opportunity to provide input to the Senate Commerce, Science and Transportation Committee on the reauthorization of the Magnuson Fishery Conservation and Management Act.

As you know, the Indian people of the Northwest have depended upon the fishery resources of this land from time immemorial. Between 1852 and 1856, territorial Governor Isaac Stevens developed and signed several treaties with the Indian tribes of the Washington territory. These treaties established the reservations and reserved fishing and other rights of the tribes on and off these reservations in exchange for millions of acres of land. These treaties are firmly supported by the United States Constitution, and the U.S. Supreme Court on several occasions has reaffirmed the fishing rights retained by the tribes in these treaties.

As a result of these treaties and many years of litigation over these rights, the treaty tribes are now accepted and recognized as co-managers of the resource, by international, federal and state management entities. Like the states, each tribe has established its own technical staff to oversee and manage their various marine and in-river fisheries. The treaty tribes of Western Washington readily share in the responsibility of stewardship of the natural resources in this region. Our commitment to the stewardship of the resource is further evident in strong tribal participation and representation in such regional management bodies as the Pacific Salmon Commission and the Pacific Fisheries Management Council.

The Northwest tribes met recently and arrived at the following general recommendations:

1. Formal recognition of the tribes' co-manager status in the Magnuson Fishery Conservation and Management Act.

2. Designation of an Indian obligatory position for the Western Washington treaty tribes on the Pacific Fisheries Management Council.

3. Increased management coordination between the North Pacific and Pacific Fisheries Management Councils on shared fisheries resources.

4. The establishment and funding of a long term observer program for domestic fisheries purposes.

5. The strengthening of the habitat provision of the Magnuson Act to give the Secretary a stronger role in habitat decisions.

We will be providing additional information on this subject during the next several months. Please feel free to contact me if you have any questions.

Sincerely,

Bill

BILL FRANK, JR.
Chairman